

ILLEGAL IMMIGRANTS: A THREAT TO THE IDENTITY OF THE
ASSAMESE PEOPLE

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Submitted By –

Arunabha Barua

UID: SF022207

I Year & II Semester

Supervised By –

Prof. (Dr.) Diptimoni Boruah

Professor of Law



National Law University and Judicial Academy, Assam

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CERTIFICATE

This is to certify that ARUNABHA BARUA has completed her dissertation titled “ILLEGAL IMMIGRANTS: A THREAT TO THE IDENTITY OF THE ASSAMESE PEOPLE” under my supervision for the award of the degree of MASTER OF LAWS/ ONE YEAR LL.M DEGREE PROGRAMME of National Law University and Judicial Academy, Assam.

Date:

Prof. (Dr.) Diptimoni Boruah

Professor of Law

National Law University and Judicial Academy, Assam

DECLARATION

I, ARUNABHA BARUA, do hereby declare that the dissertation titled “ILLEGAL IMMIGRANTS: A THREAT TO THE IDENTITY OF THE ASSAMESE PEOPLE” submitted by me for the award of the degree of MASTER OF LAWS/ ONE YEAR LL.M. DEGREE PROGRAMME of National Law University and Judicial Academy, Assam is a bonafide work and has not been submitted, either in part or full anywhere else for any purpose, academic or otherwise.

Date:

Arunabha Barua

SF022207

National Law University and Judicial Academy, Assam

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ARUNABHA BARUA

LL.M. (HONS)

UID –SF022207

National Law University and Judicial Academy, Assam

LIST OF CASES

1. *Hans Muller of Nuremberg v. Superintend, Presidency Jail, Calcutta, 1955*
2. *Union of India v. Ghaus Mohammed, 1961*
3. *All India Lawyer's Forum for Civil Liberties v. Union of India, 1999*
4. *Sarbananda Sonowal v. Union of India & Anr, 2005*
5. *Sarbanada Sonowal v. Union of India, 2007*
6. *Assam Sanmilita Mahasangha and Others v. Union of India and Another, 2015*
7. *Lal Bhanu v. Union of India, 2021*

LIST OF STATUTES

1920 - The Passport (Entry into India) Act

1950 - The Foreigners (Expulsion from Assam) Act

1955 - The Citizenship Act

1959 - Assam State Acquisition of Lands Belonging to Religious and Charitable Institutions of Public Nature Act

1967 - The Passport Act

1980 - The Forest (Conservation) Act

1983 - The Illegal Migrants (Determination by Tribunals) Act

1986 - Citizenship (Amendment) Act

2006 - Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act

2019 - Citizenship (Amendment) Act

TABLE OF ABBREVIATIONS

&	And
AAGSP	All Assam Gana Sangram Parishad
AAMSU	All Assam Minority Students Union
AASU	All Assam Students Union
AGP	Asom Gana Parishad
AIR	All India Reporter
Anr.	Another
APBO	Assam Police Border Organisation
Art.	Article
BJP	Bharatiya Janata Party
BWS	Burachapori Wildlife Sanctuary
CAA	Citizenship (Amendment) Act, 2019
EC	Election Commission
HDI	Human Development Index
IMDT	Illegal Migrants (Determination by Tribunals) Act
ISI	Inter Services Intelligence
NRC	National Register of Citizens
PIL	interest litigation
PIP	Prevention of Infiltration into India of Pakistani Nationals Programme
PMAY	Pradhan Mantri Awas Yojana
S	Section
ULFA	United Liberation Front of Asom

1. INTRODUCTION

The process of people moving from one location to another for the purpose of bettering their economic, social, or political circumstances is a natural and ongoing phenomena. This kind of movement can take place either within a nation (which is referred to as migration) or between nations (which is referred to as immigration). Immigration is displacement of people from one nation into another with the objective of establishing a permanent residency there. This movement of people can take place legally or illegally. This movement can be legally backed when immigrants follow the procedure established to get admitted to another country.¹ However, immigration is illegal when such procedures are not followed and they enter another country without a valid visit or other required documentation. Illegal immigrants illegally stay or overstay (stayed longer than their visa permitted) in a foreign country.

The Passport (Entry into India) Act, 1920², and later The Passport Act, 1967³, are one of the oldest pieces of legislation that regulated the entry and exit of foreigners in India. However, neither illegal immigrants nor foreigners are defined anywhere in these Acts. The only thing it does is “provide for the issue of passports and travel documents, to regulate the departure from India of citizens of India and other persons, and for matters that are incidental or ancillary thereto.”⁴

Assam has attracted large-scales of migrants from the different parts of the country, especially Bengal, since the British came of the province in 1826. After our nation gained its independence, this trend evolved into illegal immigration from our neighboring country of Bangladesh, which was formerly known as East Pakistan.⁵ Assam is an abode to a sizeable portion of people who entered the country illegally from neighboring states. These illegal immigrants are portrayed to be the roots of severe identity crises among the Assamese community. Many have also spoken about the significant adverse effects on the socio-political and economic environment of the state. This, in turn, has fostered a more nationalistic outlook among Assamese people.

¹Sejal Choudhary, ‘Illegal Immigration to Assam: A Contemporary Crisis’ (2022) 11(6) IJHSSI 42, 46.

²The Passport (Entry into India) Act 1920.

³The Passport Act 1967.

⁴Ibid, s 3.

⁵Protim Sharma, ‘Problem Of Immigration And Quest For Identity In Assam, India’ (2015) HSSR 423, 428.

Illegal immigration has been a major cause of concern in the state of Assam due to its resultant events such as scarcity of resources and insufficiency of land to reside. It has a strong effect on the emotional state of the Assamese population. It has been said time and again that this phenomenon of mass immigration and blending into the Assamese community by the Bangladeshi immigrants has given birth to a sense of cultural and political insecurity among the Assamese community.

Struggle over land, resources and especially identity are not recent in the northeastern part of the country. The concept of identity has recently garnered a great deal of focus in the social discourse of modern cultures. It has evolved into a contested topic, the core of which is the anxiety associated with the prospect of losing one's identity while simultaneously attempting to assert that identity. This is especially important in the context of Assam where 'identity' has become a deeply emotional and pricking topic.

The Assam Accord, which was entered on August 15, 1985, is the first such document to conceptualize the phrase in the context of illegality of immigration from East Pakistan. This agreement was signed in the aftermath of the Assam Movement because of a seamless mingling with the local population, particularly in the lower areas of the state of Assam.⁶ In the event that immediate action is not taken, the State risks the possibility of losing these districts to Bangladeshi nationals and thus, losing land, culture and identity.

To understand the correspondence between Assamese identity and immigration, we are required to look deep into the meaning of 'identity' in reference to Assamese people. The people who call themselves Assamese face a peculiar conundrum when they are required to outline their identity. The nation-state acknowledges that its citizens have a language, a geographical location, a culture, and a literature that all contribute to the multi-cultural ethos of the nation. This is something that is acknowledged by the academic and cultural institutions of the country.

The Assamese people also have a recorded history that is referred to as buranjis⁷. This history demonstrates that the region's political connection with the other parts of India throughout the mediaeval period was shaky for a number of centuries. As a cultural community, the Assamese

⁶Anupama Roy, 'Ambivalence of Citizenship in Assam' (2016) 51 Economic and Political Weekly 45, 48.

⁷Harekrishna Deka, 'The Assamese Mind: contours of a landscape' (2005) 32 India International Centre Quarterly 189, 190.

may trace their roots back to the Aryavarta, even if their ancestors came from a variety of other races.⁸ On the other side, they are also looking to the East, which is beyond the historic boundaries of India. As a socio-ethnic and linguistic community, the Assamese culture developed over the course of many centuries in a melting pot scenario, where migrants blended with the natives until relatively recent times. The Tibeto-Burmans moved down through the low hills of the Patkai range and the lower Himalaya, whilst the Aryans came in waves from the plains of the Indo-Gangetic region. In spite of such a high cultural history and heritage, the Assam Sahitya Sabha failed to define 'Assamese' for the ease of understanding the Assam Accord in 1985.⁹

Since the beginning, it has been clear that a demographic onslaught consisting of migrants from the Bengal Delta prior to the split and illegal immigrants from Bangladesh later has been occurring. Not only this, the presence of such a huge number of non-Indians on Indian territory poses a direct danger to the nation's national security as well as its sovereignty. These people are particularly interested in farming or tilling lands, at a much lower rate than the normal labour force, and have successfully captured much of the land in the state, and hence, illegal immigration from Bangladesh into India has caused havoc on the economy of Assam.¹⁰

In this backdrop, the researcher will attempt to understand the need to safeguard the Assamese identity and its relation with illegal immigration in the state.

1.1 STATEMENT OF PROBLEM

People have been moving around from one location to another ever since the beginning of civilization. People move from one location to another for a variety of reasons, and this can occur either within the same country or to a new country altogether. A thorough examination of history demonstrates that individuals from all over the world have been compelled to from their homes as a result of class warfare, political persecution, and disasters that were either caused by man or occurred naturally.

⁸ Aryavarta is a term for the northern Indian subcontinent along with some other parts in the ancient Hindu texts such as Dharmashastras and Sutras, referring to the area of the Indian subcontinent settled by Indo-Aryan tribes and where Indo-Aryan religion and rituals predominated.

⁹ Udayon Misra, 'Victory for Identity Politics, Not Hindutva in Assam' (2016) 51 Economic and Political Weekly 20, 21.

¹⁰ Gautam Saikia, 'Migration into Assam and its impacts: A study of Illegal Bangladeshi Migration' (2019) 10(4) The Research Journal of Social Sciences 332, 334.

As soon as India was partitioned in 1947, it became a showcase for some of the world's most problematic migration practices. In addition to this historically-based origin, India has also been a destination for migrants from its immediate neighbours, including Nepal, Bhutan, Bangladesh, Sri Lanka, and Pakistan, amongst others.

An in-depth analysis of the movement of such immigrants reveals that, of all the states, the one that is being affected the most negatively is the state of Assam, which is located in the northeast. The issue of migration across borders grew increasingly pressing, and in 1979 there was the beginning of a powerful campaign known as the “Assam movement,” which was directed against the arrival of such migrants. It lasted until 1985, when it was finally resolved with the entering of the “Assam Accord” in August of that year. This Accord includes a number of concessions and compromises, all of which are predicated on a variety of “cut-off dates” for the entry of immigrants into India.

The Illegal Migrants (Determination by Tribunals) Act, 1983 was introduced as law by the Indian Parliament in 1983 in order to address the issue of migrants. However, as will be demonstrated in greater depth in the dissertation, the implementation of this law proved to be a catastrophe for the veterans of the Assam Movement. The same thing was explained by the Supreme Court in 2005 when it made its decision.

This research is particularly relevant to the state of Assam because of the persistent influx of illegal migrants from Bangladesh, which has not only resulted in a change in the demographical makeup of Assam but has also had a negative impact on the state's social, cultural, and economic spheres. In addition to this, the number of crimes that have been committed has skyrocketed, not to mention the fact that the area is becoming increasingly overcrowded, polluting, and riddled with slums. As a result of the pressing nature of the situation, the researcher has decided to focus her research on this subject. There is an immediate need to do exhaustive action by the state in order to develop relevant legislation, guidelines, and policies pertaining to illegal immigration.

1.2 REVIEW OF LITERATURE

- **Rituraj Basumatary**, in his book, **Political Identity Crisis of the Assamese and their Assam Movement**¹¹, provides an overview of the the political identity problem that the

¹¹ Rituraj Basumatary, *Political Identity Crisis of the Assamese and Their Assam Movement* (Notion Press 2020).

Assamese are going through at the moment, as well as their Assam Movement. Illegal immigrants from Bangladesh are currently contributing to a number of issues that are socio-political, and economic in nature in the state of Assam. The Assam Movement, which took place from 1979 through 1985, is the most notable example of a movement directed against illegal immigration from Bangladesh. People in Assam had a sneaking suspicion that a significant number of illegal immigrants came from Bangladesh. They were of the opinion that the native population of Assam may get decreased to a minuscule portion of the population on the territories that rightfully belonged to them if those foreign nationals were not identified and removed from the country.

- **Sanjib Baruah**, in his book, **India against Itself: Assam and the Politics of Nationality**¹², analyses the issue of nations in Assam and the northeast of India, which is a region that observers of Indian politics and ethnic conflicts have, for the most part, overlooked. It is more than a case study because it offers a credible picture of the ethnic strife and political upheaval that occurred in the region. The conventional understandings of ethnic conflicts, why they occur, and how they degenerate into tenacious insurgencies are called into question by Baruah in his book. He investigates the relationship that exists between India and the ethnic groups that make up Assam, which has the potential to become its own state. Although Baruah's promotion of democratic federal structure is not particularly noteworthy, this book does not provide satisfactory answers to a number of concerns, including the following: why has there been no letup in militant activity despite the fact that after 1990 Indian politics is more decentralized than it has ever been? As a result of the gains that ethnic regional parties have made at the cost of the central administrations, most observers of South Asia would concur that coalition governments have established themselves as the norm rather than the exception. During the course of the last decade, the Asom Gano Parishad party, which is widely regarded as the most important spokesperson for Assamese nationalism, was frequently included in such ruling coalitions. A more in-depth examination may reveal that decentralization is a needed but not adequate condition for the existence of ethnic peace. It's possible that the nature of competitive politics inside the framework of an unconsolidated nation-state is to blame

¹² Sanjib Baruah, *India against itself: Assam and the Politics of nationality in India* (Oxford University Press 1999).

for the instability and militancy that's been going on. Baruah merely touches on these concerns to provide us with a comprehensive view.

- **Sanjoy Hazarika**, in his book, **Strangers of The Mist: Tales of War and Peace from India's Northeast**¹³, focused on the problems and uprisings that were occurring in the states of Assam and other northeastern states, as well as the part that India's neighbors played in sculpting the political landscape of the region. He covers the beginning of the “northeast” as we know it today along with the political, linguistic, and cultural differences that have plagued the region as well as the fiery revolts, brutal suppressions, and ruthless bloodshed that have occurred. In an effort to understand what the future holds for the region without attempting to predict an answer in such an unpredictable terrain, the author has provided meticulous details and thorough backgrounds in each of the issues he presents before the readers in separate chapters, both in the context of grassroots changes and geopolitical implications. This is done in an attempt to understand what the future holds for the region.
- **Jagdish Chandra Jha**, in his book, **Aspects of Indentured Inland Emigration to North East India 1859-1918**¹⁴, addresses a variety of concerns including non-Assamese immigrant labour as well as the function of colonial and local administration. He was the one who first discovered the connection between migration and refugee. In addition to this, he investigated the causes behind the massive migration of people from Bangladesh to India and the consequences this had for the country's demographic makeup. In addition to this, he elaborates on the other issues plaguing the northeastern region of the country that are associated with immigration. Because of immigration from Bangladesh, multiple socio-cultural and economic issues have surfaced, and as a consequence, the demographic structure of the region has become more complicated.
- **Hiranya Kr. Nath & Suresh Kr. Nath**, in their article, **Illegal Migration into Assam: Magnitude, Causes, and Economic Consequences**¹⁵, talked about the factors that lead

¹³Sanjoy Hazarika, *Strangers Of The Mist: Tales of War and Peace from India's Northeast* (Penguin Books Australia 2000).

¹⁴Jagdish Chandra Jha, *Aspects of Indentured Inland Emigration to North East India 1859-1918* (Indus Publishing Company 1998).

¹⁵ Hiranya K. Nath, Suresh Kr. Nath, 'Illegal Migration into Assam: Magnitude, Causes, and Economic Consequences' (2010) SHSU Economics & Intl. Business Working Paper No. 10-06 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1750383> accessed 18 May 2023.

to illegal immigration into Assam as well as its aftereffects. It is clear that high earning prospects, the acquisition of property, and an increase in population are the primary factors driving illegal migration from Bangladesh to Assam. The purpose of this article was to highlight how illegal migrants are contributing to an increase in productivity through the use of a variety of techniques and multiple cropping. They focused on the economic aspect of immigration and highlighted the problems caused by the immigrants for the local population of the state. The availability of low-cost labour is beneficial to customers as well as the economy as a whole. This article also discussed the negative effects of heavy pressure being placed on the land, which results in socioeconomic and environmental concerns.

- **Madhusmita Sarma**, in her thesis **A Study of Migration from Bangladesh to Assam, India and Its Impact**¹⁶, not only provided a concise definition of migration and migrants but also evaluated the history of immigration from Bangladesh to Assam. This allowed her to explain the issues that are plaguing the state of Assam. She conducted a comparison analysis of how the population of Assam is rising at a very heavy speed due to the flow of migrants in her research, which she included in her paper. She gave a comprehensive presentation on the various environmental factors that contribute to migration from Bangladesh to Assam. In addition to that, she went over the many problems that are associated with migration in Assam. She offered a few solutions that can help the state in controlling future immigration to the state and then, to the country as well.
- **Hemanta Mudoi**, in his article **Demographic Changes And Identity Crisis of Ethnic Groups In Assam: An Analysis**¹⁷, contends that the presence of a sizable population of undocumented individuals creates a possible opportunity for third-party players such as India's neighbors, China and Pakistan to exert influence over activities in the Northeast. He discusses how, once the country gained its independence, the subject of migration took on political and communal undertones, and how it has remained a topic of concern ever since. Illegal immigration from Bangladesh poses a huge danger to the demographic structure of Assam; in fact, the Assamese population, which currently holds the position

¹⁶Madhusmita Sarma, 'A Study of Migration from Bangladesh to Assam, India and Its Impact' (DPhil thesis, University of Adelaide 2015).

¹⁷ Hemanta Mudoi, 'Demographic Changes And Identity Crisis of Ethnic Groups In Assam: An Analysis'(2022) 6 Journal of Positive School Psychology 4041.

of majority, is in danger of being demoted to the minority status. He argued that officials in New Delhi failed to recognize the issues detrimental influence on the broader security environment because they viewed the issue of illegal immigration as an affair of the region that only affected the state of Assam. He said this was because they viewed illegal migration as affecting only Assam.

- **Tridib Bharali**, in his article, **Migration in Assam: A Political Review**¹⁸, examined the issue of migration from a political vantage point in his article, which focused on the topic. The history of migration was examined, as well as the effects that migration is having on the demographic makeup of Assam. He also provides a political perspective, through the medium of his piece, as to why the difficulties of migration have not yet been handled, as well as the kind of politics that is tied to the subject. He also addressed the question of whether or not Bangladesh is willing to take in those refugees. The war in 1971 was the catalyst for large-scale migration in independent India, with many moving in the hopes of evading religious persecution and finding better economic opportunities. However, the majority of the cost associated with such migration is shouldered by the states of Assam and Tripura, which has led to significant demographic shifts. In this study, the complexity of the problem is mapped out, beginning with its historical roots and continuing all the way up until the establishment of the NRC. In addition, it raises concerns over the manner in which the matter has been handled by the legislative and political structures.

1.3 RESEARCH QUESTIONS

For the purpose of this study, the researcher has come up with the following research questions:

- How can we define ‘Assamese identity’?
- What are the factors of illegal migration to Assam?
- What are the effects of illegal immigration on Assamese people?
- What is the relation between illegal immigrants and identity crisis faced by the Assamese people?
- What are the steps taken by the Government to mitigate the issue of immigration and have they worked so far?

¹⁸ Tridib Bharali ‘Migration in Assam: A Political Review’ (2020) 7 Journal of Critical Reviews 4199.

1.4 AIMS & OBJECTIVES OF THE STUDY

In the backdrop of the brief introduction that has been presented and the problem that was outlined, the aim of the current study is for the researcher to gain an understanding of the nature of the problem that is illegal immigration into Assam and its effects on the identity of the Assamese people. The researcher also aims to understand the implementation of government policies directed at controlling and mitigating illegal immigration in this region.

Considering the aims mentioned, the following objectives may be formulated –

- To understand and define ‘Assamese identity’.
- To examine the history of migration and immigration to Assam.
- To access the factors of illegal immigration to Assam.
- To analyze the Effects of illegal immigration in Assam.
- To put forward some suggestion to solve the problem of illegal immigration.

1.5 SCOPE AND LIMITATIONS

The scope of the current study shall be limited to examining the essence and intensity of immigration in the state of Assam. It shall focus on the history and demographic makeup of the state and shall, through a detailed analysis, illuminate on the effects of illegal immigration in the region. It shall, then, examine the actions taken by the state and its agencies to tackle the problem and shall thereafter, attempt to understand the effectiveness of the same.

Considering the scope of the current research, the following are the limitations :

- i). The study deals with the illegal immigration to the state of Assam and although it involves the study of the history of migration and immigration to Assam, the scope of the study shall be limited to the post-independence movement to the state.
- ii). Being a socio-legal study, this research is limited to the study of impacts of immigration on the social groups of Assam (Assamese people as a whole).

1.6 HYPOTHESIS OF THE STUDY

For the purpose of this research, the researcher has come up with the hypotheses listed below:

- There is a problem of illegal immigration in the state of Assam which threatens the identity of Assamese people.
- The initiatives taken by the state to mitigate this problem is inadequate and inefficient.

1.7 RESEARCH DESIGN

The research design is an essential component of any study due to the fact that it lays out the fundamental structure that the researcher intends to adhere to over the course of the research endeavour. This current study will be fragmented into six chapters, and the following is a outline of the research design for it:

The first chapter, which is titled '**INTRODUCTION**' will include a brief summary as to the study that will be carried out, a statement of the research problem, a list emphasising the review of literature that assisted in the study, the research questions and the subsequent aims and objectives of the study, the scope and limitations of the study, and ultimately, the research design and the research methodology that will serve as the framework for carrying out the study.

The second chapter, titled '**DEFINING ASSAMESE AND THEIR IDENTITY**', shall explore the meaning of the term 'Assamese'. To understand this, the researcher will trace the history of the state of Assam, the foundation and root of the Assamese language and the impact of religion and culture in relation to identity formation of the people.

The third chapter, titled '**ILLEGAL IMMIGRATION AND LAND ENCROACHMENT IN ASSAM**', shall analyze the beginning of migration and immigration to the state along with laying down the details on land encroachment and illegal settlement by the illegal immigrants in the state thereby outlining the economic effects of illegal immigration in Assam.

The fourth chapter, titled '**CHANGES BROUGHT ABOUT BY ILLEGAL IMMIGRANTS IN ASSAM**', shall analyze the reasons for the huge magnitude of illegal immigration in the state of Assam and then, it shall attempt to understand the effects of this immigration. First, it shall discuss the demographical changes in the state, then the social changes and finally the impact on the security of the state.

The fifth chapter, titled ‘**STATE RESPONSE TO ILLEGAL IMMIGRATION IN ASSAM**’, attempt to trace the taken by the Government to mitigate the issue of immigration and through mapping the methods applied in the past and then moving on to the more recent policies. It shall also analyze the implementation of the policies undertaken by state and its relation to the ground reality and effectiveness in solving the issue.

The sixth chapter, titled ‘**CONCLUSION AND SUGGESTIONS**’, shall contain a concise conclusion of the research, as well as reflections on each of the research questions, and an analysis of the hypotheses of the study.

1.8 RESEARCH METHODOLOGY

In this study, doctrinal research approach was employed. The research for this dissertation is both descriptive and analytical in character, and no analytical study can be considered complete and final without first providing a comprehensive and in-depth explanation of the topic of study. Both primary and secondary sources of information have been drawn upon for the purpose of this research. The Constitution of India, national legislations pertinent to the problem being examined, and decisions made by the Supreme Court and High Courts of India in related matter are all primary sources that are being used. Books, journals, magazines, newspapers, and reports are all examples of secondary sources being used. The Bluebook, 20th Edition is used as the method of citation for this research.

2. DEFINING ASSAMESE AND THEIR IDENTITY

The concept of identity, both at an individual and collective level, has been widely discussed and studied throughout history. Initially a topic in philosophy, the study of identity gained prominence in the social sciences as researchers recognized the influence of socio-political factors on shaping personal and societal conceptions of self.¹⁹ As scholars grappled with understanding how individuals interact with their social environments and how their self-image is influenced by societal factors, the study of group identities became increasingly significant.

¹⁹ Madhumita Sengupta, ‘Language and making of the Assamese identity in the nineteenth century’ ‘ (DPhil thesis, University of Calcutta 2008).

In the context of this study, the examination of the group identity of the Assamese (Axomiya) holds particular importance. Without understanding the dynamics of Assamese identity, any research on the impact of illegal immigrants on this identity would be incomplete. However, defining and comprehending the meaning of ‘Assamese’ and those who identify with it has become a complex task. Assam is witnessing a growing ethnic fragmentation with the emergence of tribe-specific autonomous councils, and there are even demands for the division of Assam into multiple states.²⁰ For example, the Karbis and the Bodos assert that they are not part of the Assamese identity.²¹

The views regarding Assamese identity span a wide spectrum, ranging from those who argue that no such identity exists to those who maintain that the Assamese identity encompasses all individuals who are part of the broader Assamese culture. The ongoing contestation over the formation of Assamese nationality reflects this diversity of perspectives. In recent decades, various groups that were previously considered integral to the Assamese identity have asserted their distinct existence, even challenging their Assamese heritage.²² Conversely, in other contexts, it is claimed that the community has historically welcomed immigrants, regardless of whether they originated from within the Indian subcontinent or from Eastern nations.²³

If we acknowledge that the development of identities in Assam is a continuing process that takes place within a particular setting, then we have to consider the role of the media as an agent in this process and the role of migration from Bangladesh as a tool in this process. In the local press, the continued migration from Bangladesh to Assam is created as a security issue by means of a range of discursive methods, most notably through arguments that build a security bridge between migration and Assamese identity.²⁴ These strategies are used to construct the issue as a danger to the safety of the Assamese people. In other words, the security argument is employed

²⁰ Jitendralal Borkakoti, ‘Demographic Invasion, Assamese Identity and Geopolitics’ (2013) 1(1) *Space and Culture*, India 28, 29.

²¹ Susmita Sen Gupta, ‘Identity Assertion by the Bodos of North East India: Exploring the Role of the Educated Middle Class’ (2014) 14(2) *Global Journal of Human-Social Science: G, Linguistics & Education* 11, 13.

²² Udayon Misra, *The Transformation of Assamese Identity: A Historical Survey Volume 4 of H.K. Barpujari endowment lecture* (North East India History Association 2001) 34.

²³ cf Sengupta (n 19) 36.

²⁴ cf Borkakoti (n 20) 30.

in the discourse to describe the relationship between Bangladeshi migration and Assamese identity.²⁵ This relationship is framed as a threat to Assamese sub-national identity.

Within the context of the discourse on migration, both Assamese and Bangladeshi identities are being formed at the same time. Because collective identity is always established on the basis of the 'us' versus 'them' dichotomy, it always involves the concept of Otherness.²⁶ In the instance of migration from Bangladesh to Assam, migrants from Bangladesh are presented as the paradigmatic other by the media. The discourse of contrasts between “us” and “them” is brought into reality by discursive tactics that symbolize the positive self and the negative other, and as a result, an identical Assamese identity is constructed. The boundaries of Assamese identity are established by the press, which also determines who is and who is not considered to be an Assamese.

The complexities surrounding Assamese identity have far-reaching implications, especially in relation to the infiltration of illegal immigrants. The concerns about the impact of illegal immigration on the Assamese identity are entangled with debates over who should be included within the Assamese community and who should be considered outsiders. These debates often revolve around questions of cultural preservation, political representation, and socio-economic rights.²⁷

The issue of illegal immigration has added another layer of complexity to the discourse on Assamese identity. The influx of illegal immigrants, particularly from Bangladesh, has raised fears among some sections of the Assamese population that their cultural distinctiveness and political agency may be eroded. They argue that the uncontrolled immigration threatens to dilute the Assamese identity and reshape the demographic landscape of the region.

However, it is important to note that perspectives on this issue vary widely within the Assamese community. Some argue that the Assamese identity is dynamic and inclusive, capable of adapting and incorporating diverse cultural influences. They contend that the historical narrative of Assam

²⁵ Ibid.

²⁶ Kukil Gogoi, 'Citizenship And The Question Of Indegeneity In Assam' (2020) 7(1) IJRAR 331,335.

²⁷ Ibid 332.

is one of assimilation and cross-cultural interactions, highlighting the region's history of welcoming and integrating various communities.²⁸

The ongoing debates and contestations surrounding Assamese identity reflect the complex interplay between history, culture, politics, and socio-economic factors. The study of group identity is essential to understanding the nuances and complexities of the Assamese identity and its responses to challenges such as illegal immigration. Only through a comprehensive examination of these dynamics can a deeper understanding of the impact of illegal immigration on the Assamese identity be achieved.

The concept of Assamese culture encompasses the diverse range of cultures within the state, where multiple ethnic groups have coexisted for generations while maintaining their distinct cultural and ethnic identities.²⁹ Defining “Who is an Assamese?” is an immensely complex task. Is it based on language or religion? While Assamese is the predominant language, several ethnic groups do not consider it their mother tongue as they have their own literature and language. Just as someone can be British in Britain while also identifying as British Assamese or British Ugandan, an Indian citizen living in Assam could be “Assamese Punjab” or “Assamese Gujarati”.³⁰

Since the end of the Assam Agitation and formulation of the Assam Accord on August 13, 1985, the meaning of “Assamese people” has been a subject of controversy. Numerous commissions and committees have attempted to narrow down the definition of an “Assamese person” over the years, but no state government has been able to do so successfully.³¹ In July 2019, the Union Home Ministry appointed a “high-level committee” to determine the appropriate answer to the question of “Who is an Assamese?”.³² On February 25, 2020, the committee, led by retired

²⁸ Kuntala Das, ‘A Social Construction of ‘identity’ among the Indigenous and Immigrants in Assam’ (2016) 6(2) *Journal of North East India Studies* 1, 5.

²⁹ cf Borkakoti (n 20) 29.

³⁰ Ibid.

³¹ Editorial, Who is an ‘Assamese’? Why it’s Difficult to Define? (*Time8*, 30 March 2022) <<https://www.time8.in/who-is-an-assamese-why-its-difficult-to-define/>> accessed 19 June 2009.

³² Arunabh Saikia, Panel formed by home ministry proposes definition of ‘Assamese people’ – to mixed responses in Assam (*Scroll*, 12 August 2020) < <https://scroll.in/article/970086/panel-formed-by-home-ministry-proposes-definition-of-assamese-people-to-mixed-responses-in-assam>> accessed 19 May 2023.

Justice Biplab Sharma, presented its findings to Sarbananda Sonowal, the then Chief Minister of Assam at that time.³³

In an effort to define the term “Assamese,” the committee proposed five distinct groups, considering the execution of Clause 6 of the Assam Accord. These groups included Assamese communities that had resided in Assam territory on or before January 1, 1951, indigenous tribal communities that had lived in Assam territory on or before January 1, 1951, other indigenous communities that had lived in Assam territory on or before January 1, 1951, all other Indian citizens who had lived in Assam territory on or before January 1, 1951, and descendants of the aforementioned groups.³⁴

The proposed classification aimed to address the concerns of preserving the rights and identities of various communities within Assam while ensuring the implementation of the Assam Accord.³⁵ However, even with these suggestions, defining the Assamese identity remains a contentious and ongoing debate. The complexity arises from the fact that Assam is a melting pot of diverse cultures, each with its own unique history, language, and traditions.

Centuries of historical interactions, migrations, and assimilations has formed the Assamese identity. The assimilation of different cultural elements has contributed to the richness and diversity of Assamese culture. However, this also means that there is no monolithic or homogeneous Assamese identity. Instead, it is a tapestry woven with threads from various ethnic, linguistic, and religious groups.

Furthermore, the changing dynamics of society and the aspirations of different communities have led to a re-evaluation of Assamese identity. The emergence of demands for autonomy and separate statehood by certain ethnic groups reflects their desire to preserve and promote their distinct cultural heritage.³⁶ This has led to a fragmentation of the Assamese identity, as various

³³ PTI, ‘Assam: Clause 6 committee defines ‘Who is an Assamese’, AASU makes recommendations public’ (India TodayNE, 29 June 2022) < <https://www.indiatodayne.in/assam/story/assam-clause-6-committee-defines-who-assamese-aasu-makes-recommendations-public-404053-2020-08-12> > accessed 15 June 2023.

³⁴ Ibid.

³⁵ cf Saikia (n 32).

³⁶ Ibid.

groups assert their unique ethnic or tribal identities and question their inclusion within the broader Assamese framework.

The ongoing debates and discussions surrounding the definition of Assamese identity are not merely academic exercises; they have significant implications for political representation, social welfare policies, and resource allocation within the state. The inclusion or exclusion of certain communities from the Assamese identity can shape their access to rights, opportunities, and benefits.

The definition of “Assamese identity” remains unresolved and subject to ongoing deliberation. The “high-level committee” submitted a report on this matter was submitted to the State Government instead of the Union Home Ministry, as the latter was hesitant to accept it. This hesitation indicates that the definition provided by the committee is not considered binding. Himanta Biswa Sarma, the Chief Minister of Assam, mentioned during the budget session of the Legislative Assembly in March 2022 that the legality of the understanding of “Assamese people” was still under consideration, further emphasizing the need for continued deliberation on this topic.³⁷

Given the current situation, it is necessary to revisit previous research on Assamese identity and examine the various perspectives in order to form a comprehensive understanding. The term “Assamese” has been defined in a variety of different ways over the course of its history by various members of academia, legislative bodies, and civil society.³⁸ However, one thing that hasn't been completely discussed is the fact that the term “Assamese” can refer to three different things: “a language”, “a particular culture”, or an indigenous individual or community that lives inside the “geographical territory of Assam”, which is getting smaller gradually.³⁹ Another important factor that can help in defining the “Assamese identity” is the shared historical experience. The inability to differentiate between these three interpretations of the term has been a contributing factor in the perpetuation of conflicts that have not been addressed and the fracturing of the area as a result of Assamese sub-nationalism. Understanding and reconciling

³⁷ cf Editorial (n 31).

³⁸ cf Biswas (n 38).

³⁹ Ibid.

these different dimensions of Assamese identity is crucial for promoting inclusivity and fostering a sense of unity among the diverse communities residing in Assam.

By carefully examining the historical, linguistic, cultural, and geographical aspects associated with the term “Assamese,” it is possible to piece together the puzzle of Assamese identity. This process requires open dialogue, consultation with various stakeholders, and a willingness to acknowledge the complexities and diversity inherent in the Assamese society. A comprehensive and inclusive definition of Assamese identity can contribute to social harmony, political stability, and the overall development of the state.

2.1 HISTORY AND COMMON EXPERIENCES

Understanding the concept of Assamese identity requires acknowledging its historical context and recognizing that it is not a static or singular construct. Academics propose that community identity should be viewed as a dynamic and multifaceted process that constantly evolves over time.⁴⁰ Consequently, undertaking a historical overview and study of Assamese identity becomes essential due to the multitude of possibilities that emerge when exploring the question of who qualifies as an Assamese.⁴¹

During the colonial era in India, the British administration employed an immigration strategy in Assam, leveraging the argument that the local population was insufficient to meet the labor demands of the tea plantations. To address this shortage, the government actively encouraged educated Bengali workers to assume positions in official agencies. Bengali was declared as the official language in 1836 by the British administration of the region, assuming that the speech forms of the plains people were derived from Bengali and therefore considered variations of it⁴².

However, beginning in the 1850s, Bengali came under increasing criticism, and there were calls for Assamese to replace it as the province's official vernacular. The initial proponents of this change were the Christian missionaries of the American Baptist Mission, who argued that Assam had its own distinct language that deserved recognition as the most commonly used language in the province. The state, initially resistant to these demands, claimed that Assamese was merely

⁴⁰ Yasmin Saikia, *Assam and India: Fragmented Memories, Cultural Identity, and the Tai-Ahom Struggle* (Orient Blackswan, 2005).

⁴¹ *Ibid.*

⁴² cf Das (n 28) 4.

a corrupted dialect of Bengali. However, mounting public pressure eventually compelled the government to reconsider its stance, leading to the overturning of the original decision. In 1873, Assamese was officially designated as the state language of Assam, and in the subsequent year, Assam was elevated to the status of a province under a Chief Commissioner.⁴³

This linguistic shift played a significant factor in shaping the Assamese identity. The recognition of Assamese as the state language solidified its importance and contributed to a growing sense of distinctiveness among the Assamese-speaking population. Language has long been regarded as a critical element in the formation of collective identity, and in this case, the acceptance of Assamese as the language to be used for official purposes, served to strengthen the cultural and regional identity of the people.⁴⁴

However, it is important to note that Assamese identity extends beyond language alone. Assam is a diverse region with numerous ethnic groups and indigenous communities coexisting for generations while maintaining their unique cultural and ethnic identities. The idea of being Assamese encompasses a shared history, cultural practices, traditions, and a sense of belonging to the geographical territory of Assam.⁴⁵ It is a complex amalgamation of various factors that contribute to an individual or community identifying as Assamese.

In recent times, debates and discussions have arisen surrounding the scope and inclusivity of Assamese identity. The changing demographic landscape, emergence of tribe-specific autonomous councils, and demands for the division of Assam into multiple states has further complicated the understanding of Assamese identity. Views range from those who believe in a broader definition that encompasses all individuals falling within the larger Assamese cultural fold to those who assert their distinct existence and disassociate from the Assamese heritage.

To comprehend the intricate nature of Assamese identity, it is crucial to approach it as a historical and evolving process. Engaging with previous research, scholarly perspectives, and diverse viewpoints can help shed light on the multifaceted dimensions of Assamese identity. By embracing inclusivity and recognizing the richness of cultural diversity within the Assamese

⁴³ cf Biswas (n 38).

⁴⁴ Ibid.

⁴⁵ cf Borkakoti (n 20) 29.

society, it is possible to foster a sense of unity and strengthen the collective identity that binds the Assamese people together.

The inclusion of the Bengali-speaking district of Sylhet in Assam in 1874 for administrative purposes caused significant discontent among the Assamese population. This decision led to a surge in the number of Bengalis in Assam, which created feelings of resentment and marginalization among the native inhabitants. Additionally, the administration actively encouraged immigration from eastern part of Bengal in the early 20th century, aiming to promote agricultural expansion in the province.

The immigrants, referred to as Mymensinghians, initially settled in the jungle-infested riverine zones of Assam. Over time, they expanded their presence and gradually encroached upon the territories previously occupied by the native population. To convince Assamese villagers to sell a portion of their land, the newcomers offered higher prices, leading to a gradual transfer of land ownership.⁴⁶ This dynamic fuelled the emergence of identity politics within Assam, as the native population grappled with the changing demographic landscape.

Before India's independence, the British government in Assam faced challenges in defining the Assamese identity. Surprisingly, as late as the first few years of the 20th century, there was uncertainty surrounding who could be considered an Assamese.⁴⁷ The 1901 Census of India Report on Assam delved into this intriguing topic, acknowledging the complexities and differing opinions surrounding the Assamese identity. The report recognized that “Assamese” could have multiple interpretations, including specific ethnic groups, language speakers, or individuals residing within the geographical boundaries of Assam.⁴⁸ This ambiguity reflected the ongoing debates and discussions on the topic. It says:

“It is by no means easy to define who the Assamese are. They are not those who have been born in Assam, for a very large number of these persons are the children of foreign parents, who would not be allowed to enter an Assamese cook-house, neither are they the people who speak the Assamese language, for in upper Assam, at any rate, a certain number of immigrants who have settled down in the country have returned themselves in fire census schedules as speaking

⁴⁶cf Saikia (n 40).

⁴⁷cf Das (n 28) 4.

⁴⁸ Ibid.

*Assamese. There is in fact no absolute test by means of which we can divide the inhabitants of Assam into those who are Assamese and those who are not....*⁴⁹

During the colonial dominance in North-East India, the arbitrary drawing of boundary lines created significant problems and disregarded the social, cultural and linguistic unity of the region's people. These boundaries, established for administrative convenience, had far-reaching consequences for nearly two centuries. Furthermore, the British administration's greed for resources in the region facilitated the influx of culturally and linguistically diverse tribes, posing a threat to the indigenous communities known as khilonjia, which refers to people who have lived in one place for many generations.⁵⁰

In the colonial era, there was a growing desire to replace traditional caste and ethnic identities with a new national identity.⁵¹ The goal was to create an “imaginary community” where regional identities would be superseded by a unified Indian identity.⁵² However, the composite identity envisioned could not sustain itself due to internal conflicts within the group. This led to competition among various groups, each vying for recognition within the emerging nation-state, particularly in relation to the “Axamiya” identity.⁵³

Despite efforts to incorporate tribal populations from the plains into the “Axamiya” identity, the hill tribes continued to face marginalization to varying degrees. The failure of the Assamese middle class to alleviate their fears of being outnumbered and displaced by immigrants further alienated the tribal communities from the collective “Axamiya” identity.⁵⁴ As a result, the recognition of the multiethnic nature of Assamese society coexists with ongoing attempts to forge a singular national identity. Resolving this crucial contradiction in the development of Assamese nationality is a pressing challenge that the Assamese middle class must confront.⁵⁵

The complexities surrounding identity in Assam highlight the long-lasting impact of colonial rule and the legacy of border demarcations that overlooked the social and cultural fabric of the region.

⁴⁹ Census of India, 1901

⁵⁰ cf Biswas (n 38) 182.

⁵¹ H. Gohain, ‘Ethnic Unrest in the North-East’ (1997) 32 *Economic and Political Weekly* 389, 390.

⁵² *Ibid* 391.

⁵³ U. Goswami, *Conflict and Reconciliation: The Politics of Ethnicity in Assam* (Routledge 2014).

⁵⁴ U. Misra, ‘Immigration and Identity Transformation in Assam’ (1999) 34 *Economic and Political Weekly* 1264, 1265.

⁵⁵ *Ibid* 1266.

The influx of diverse communities and the ensuing tensions have shaped the discourse on identity and belonging in Assam.⁵⁶ To address these challenges, it is imperative to recognize and respect the unique cultural and linguistic heritage of different groups while fostering a sense of inclusivity within the broader Assamese identity. This requires engaging in meaningful dialogue, understanding historical nuances, and actively working towards a more inclusive and equitable society where all communities can thrive. Only through such efforts can Assam navigate the complexities of its identity and forge a path towards unity and harmony.

The challenge of building an ethnic identity in Assam can be traced back to its colonial roots. The practices of large-scale geographic and demographic restructuring employed by the British had a profound impact on the formation of Assamese identity.⁵⁷ This, coupled with current socio-economic conditions, has led to the disengagement of diverse ethnic communities and their assertion of distinct ethnic identities instead of a composite “Axamiya” identity.

One significant colonial policy that influenced ethnic identity in Assam was the concept of Inner Lines. These lines prohibited individuals residing outside a specific area from living or moving within it. Similar programs targeting frontier tribes, such as “backward tracts,” “agency areas,” and “excluded areas,” further emphasized the differentiation between the inhabitants of the hills and those of the plains.⁵⁸

These colonial practices persisted into the post-colonial era, as evidenced by the establishment of Tribal Belts and Blocks aimed at protecting the territorial rights of indigenous groups. It is believed that the British sponsorship of diverse ethnicities' migration to Assam contributed to the later emergence of ethnic conflicts in the region.⁵⁹ The colonial regulations intended to safeguard the cultural heritage and identity of minority communities inadvertently laid the foundation for ethnic assertions in the following years.

While all ethnic groups in Assam fought together for a common cause during the British Rule and the struggle for Independence, social and political cohesion began to erode in the years

⁵⁶ cf Misra (n 54) 1266.

⁵⁷ N. Dutta, *Question of Identity in Assam: Location, Migration, Hybridity* (Sage 2012).

⁵⁸ cf Goswami (n 53).

⁵⁹ Ibid.

following independence.⁶⁰ The “mainstream” middle class Assamese, who held political power in Assam, failed to adequately consider the needs of the tribal people. This lack of attention to their concerns led to a gradual breakdown in social and political unity over a span of several decades.⁶¹

To address the challenges of ethnic identity building in Assam, it is crucial to recognize and acknowledge the historical legacies left by colonial practices. Efforts must be made to bridge the gaps between different ethnic communities, ensuring that the aspirations and needs of all groups are taken into account. This requires inclusive governance, meaningful dialogue, and the promotion of cultural diversity while fostering a sense of belonging and shared purpose among all Assamese. By addressing the historical injustices and working towards a more inclusive society, Assam can pave the way for a stronger and more harmonious ethnic identity that respects the unique heritage of all its communities.

2.2 LANGUAGE

The formation of ethnic identity in Assam is closely linked to the role of language. Bilingualism played a significant role in shaping expressions of solidarity based on language affiliation⁶² This means that identifying as 'Assamese' can be inclusive of other languages as well. For instance, individuals who speak both Bodo and Assamese can identify themselves with a plural “Axamiya” identity.⁶³ The term “Axamiya” has evolved to represent the language itself, and its origin predates the language itself, drawing from “Ahom.” “Cham” meant “to be undefeated” in the Tai language. When combined with the Assamese part, the entire word implies “undefeated.”⁶⁴

Dr. John Peter Wade, in his writings, acknowledged the connection between the people of Assam and the Assamese language in a rather detached manner. He noted the existence of two distinct languages in the region and highlighted that not everyone in the area was bound by the same language. He mentioned the Bailoongh or Ahum language, associated with the Swurgeedeo

⁶⁰ cf Goswami (n 58).

⁶¹ Partha Pratim Borah, Rabin Deka, ‘We Are Not Assamese: Reflections On Ethnic Identity Formation In Contemporary Assam’ (2019) 8 International Journal of Scientific & Technology Research 2381, 2387.

⁶² S. Baruah, ‘Immigration, Ethnic Conflict, and Political Turmoil Assam, 1979-1985’ (1986) 26 Asian Survey 1184,1202.

⁶³ cf Borah, Deka (n 61).

⁶⁴ cf Biswas (n 38) 182.

conquerors of Assam, and the Bhakha, a dialect of Bengali.⁶⁵ The Bailoongh history was written in characters unfamiliar to the pundits of Bengal, and only a single family in Assam, the hereditary ministers of the Bailoongh religion and literature, could decipher these characters. On the other hand, the Bhakha language was considered relatively easy to learn.

In the book “Questions of Identity in Assam” by Nandana Dutta, it is pointed out that while there were indigenous groups in the region, including the “Koch”, “Ahom”, “Tiwa”, “Mishing”, and others, there was no explicit mention of an “Assamese” community. The name “Aham” was only changed to “Assam” when the British arrived, and it was during this period that the Assamese language was understood to be a standard format of the Sibsagar dialect.⁶⁶

These historical factors illustrate the complex and evolving nature of Assamese identity. The assimilation of various linguistic and ethnic groups over time, as well as the influence of colonial practices, has shaped the understanding of what it means to be Assamese.⁶⁷ The language itself has played a crucial role in both defining and unifying the Assamese identity, with the concept of “Axamiya” encompassing linguistic diversity.

The recognition of diverse ethnic groups and their languages within the broader Assamese identity is essential for fostering inclusivity and social cohesion. Embracing a pluralistic approach that celebrates the richness of linguistic and cultural diversity can help build a stronger and more harmonious Assamese identity. This requires acknowledging the historical origins of language and identity, while also promoting dialogue, understanding, and respect among different communities. By embracing their shared history and embracing the diversity within their identity, the people of Assam can forge a stronger sense of unity and belonging that encompasses their collective heritage.⁶⁸

2.3 RELIGION

The cultural unity of the Assamese people is not based on religion, except for the revived Sankari culture, which encompasses both the “mainstream” Assamese and many members of ethnic

⁶⁵ J. Nagel, ‘Constructing Ethnicity: Creating and Recreating Ethnic Identity and Culture’ (1994) 41 *Social Problems* 152.

⁶⁶ cf Goswami (n 53).

⁶⁷ S. Baruah, ‘Ethnic’ Conflict as State-Society Struggle: The Poetics and Politics of Assamese Micro-Nationalism’ (1994) 28 *Modern Asian Studies* 649, 671.

⁶⁸ *Ibid.*

minorities. While religion plays a significant role in Indian society, it does not heavily influence Assamese culture. Muslim culture, for example, differs from Hindu culture, and even among Hindus, there are diverse beliefs among Vaishnavs and Brahmins. The ideas of Mahapurush Srimanta Sankardev, a 15th-century social reformer and religious leader, form the foundation of Assamese culture and its historical identity.

During its formative years, Hinduism served as the root and foundation of Assamese culture. The Ahom and Koch kings who ruled the region eventually embraced Hindu deities and religious practices. Over time, Assamese culture absorbed influences from the Muslim community as well as the indigenous tribal populations, incorporating their cultural practices into a composite Assamese culture that exists today.

It is worth noting that the Government of Assam has recognized certain Muslim communities, such as the Gorias, Moriyas, Jolhas, Deshis, and Syeds, as indigenous Assamese communities.⁶⁹ This recognition highlights the inclusive nature of Assamese identity, where a common religion is not a defining criterion to identify as “Axamiya.”⁷⁰

The cultural fabric of Assam is characterized by a diverse range of traditions, customs, and practices that have evolved over time. The assimilation of various religious and ethnic communities has contributed to the richness and complexity of Assamese culture. This pluralistic nature reinforces the notion that being Assamese is not solely defined by religious affiliation but encompasses a broader sense of shared heritage, language, traditions, and values.

The assimilation and acceptance of diverse religious communities into Assamese culture demonstrate the inclusive and accommodating nature of the Assamese people. This unity, despite religious differences, reflects a deep-rooted sense of belonging and a common identity that extends beyond religious boundaries. It is through this amalgamation of diverse cultural influences that the Assamese people have developed a unique and vibrant cultural identity that is distinct from other regions of India.⁷¹

⁶⁹ PTI, 5 Muslim Communities Get ‘Indigenous’ Status In Assam (NDTV, 6 July 2022) <<https://www.ndtv.com/india-news/5-muslim-communities-get-indigenous-status-in-assam-3131172>> accessed 19 June 2023.

⁷⁰ cf Goswami (n 53).

⁷¹ cf Borah, Deka (n 61).

While religion undoubtedly plays a role in shaping individual beliefs and practices within the Assamese society, it does not serve as the primary factor that unites the Assamese people as a cultural group. Instead, it is the shared history, language, customs, and values that bind them together and contribute to their collective identity. This recognition of diverse cultural expressions and the ability to coexist harmoniously is a testament to the strength and resilience of Assamese culture and its ability to adapt and embrace various influences over time.

2.4 CULTURAL SIMILARITIES

The secondary meaning of the term “Assamese” refers to the group itself, which possesses a distinct culture that serves as the foundation for its unique cultural identity. The social and cultural life of the Assamese people encompasses a wide range of socio-cultural practices that contribute to their collective identity.⁷²

The emotional connection that Assamese people have with their land, the Brahmaputra River, and the festival of Rongali Bihu has the potential to transcend the divisive forces of ethnicity and religion. These shared sentiments can inspire the formation or definition of Assamese identity (jati) or “sub-nationalism” that aligns with nationalism of the country. During the Assam Agitation, which united people from all ethnic groups, Assamese nationalism was expressed through large-scale processions and peaceful rallies. Indian nationalism and Assamese nationalism are intertwined and must coexist, as one may not be in existence without the counterpart.⁷³ Nevertheless, following the Assam Agitation, “Assamese sub-nationalism” fragmented into different ethno-nationalist movements, making it challenging to reunite the diverse strands of Assamese identity.

To address this challenge, another aspect needs to be considered: the recognition of the native people residing in the geographical area of state of Assam. This approach aims to differentiate the Assamese people from other definitions that overlap.⁷⁴ However, this definition presents unresolved issues. The Assamese people comprise non-tribal communities that have come into the region over the past few centuries, as well as various tribes like the “Bodos”, “Mishings”, “Karbis”, “Rabhas”, “Garos”, and many other tribes who have been inhabiting the area since

⁷² cf Biswas (n 38).

⁷³ Ibid 183.

⁷⁴ K. Gogoi, ‘Citizenship and the Question of Indigeneity in Assam’ (2020) 7 IJRAR 331.

ancient times and can be considered autochthons.⁷⁵ This category excludes recent immigrants who are newcomers to the region, culture, and language.

Cultural figures such as Bhupen Hazarika, Bishnu Rabha, and Jyoti Prasad Aggarwala and others have encouraged the accommodation these newcomers into the folds of Assamese identity, as highlighted by Sangeeta Barooah Pisharoty. This suggests that culture is a lively and ever-changing process rather than something static. Assamese culture has the capacity to adapt and assimilate new influences while maintaining its core values and traditions.

The ongoing evolution of Assamese identity reflects the complex nature of cultural dynamics. While the definition of Assamese identity may vary based on different perspectives, it is the collective consciousness and shared cultural practices that bind the community together.⁷⁶ The inclusive nature of Assamese identity allows for the incorporation of diverse communities and tribes while preserving the essence of Assamese culture.

In conclusion, the cultural life of the Assamese community serves as the foundation for its unique identity. Emotions linked to the land, festivals, and shared cultural experiences can transcend divisions based on ethnicity and religion. While the challenge of reunifying Assamese sub-nationalism remains, an understanding of the autochthonous people residing within Assam's geographical space can help differentiate them from newcomers. The dynamic nature of Assamese culture allows for the accommodation of diverse communities, fostering a sense of unity within the broader Assamese identity.

Pisharoty's interpretation of khilonjia, or the indigenous people, has significant political implications. She traces the annexation of Goalpara District and excludes those whose ancestors came into the area of the Ahom Kingdom (excluding Goalpara) after 1826 from being understood as 'khilonjia'. However, it is important to note that Goalpara is now part of Assam, and therefore, it would be incorrect to refer to a group of people as khilonjiaAxamiya without including the residents of the Goalpara region. The "khilonjia and the Assamese identity" should not be viewed

⁷⁵ S. Barooah Pisharoty, *Assam: The Accord, The Discord* (Penguin Random House India 2019).

⁷⁶ cf Gogoi (n 74).

from a monolithic ideas because the Assamese identity is heterogeneous, encompassing contributions from all communities.⁷⁷

Throughout history, various elements have contributed to the formation of the Assamese identity. Bodo, Austric, Dravidian, “Aryan-speaking elements from Bengal and Bihar”, and the “Siamese-Chinese section of Mongoloids in their Thai tribe of the Ahoms” have gradually changed into the Aryan-Assamese-speaking community of the area of Assam.⁷⁸ Therefore, promoting a khilonjia identity solely based on the events of 1826 would be seen as discriminatory and incomplete.

It is essential to recognize that the Assamese society has demonstrated a liberal outlook, as highlighted by scholars. The “Assamization of Ahoms,” who governed Assam for 600 years despite having distinct religion and culture upon their arrival from Burma, exemplifies the accommodating nature of the Assamese people.⁷⁹ When the British arrived, Assamese society comprised various ethnic groups, including caste Hindus, plain tribal communities, and a relatively small number of Assamese Muslims.⁸⁰

The notion of Assamese nationality primarily emerged in the end 19th and early 20th centuries, referring to those solely from the Brahmaputra valley. At that time, two significant historical factors contributed to the development of a national consciousness among the Assamese people. First, there was a fight to restore the prestige of the Assamese language, recognizing its importance as a symbol of identity. Second, the mounting demand for agricultural land intensified due to the ongoing immigration of land-hungry individuals from neighboring East Bengal, which began to increase in the early 20th century.⁸¹

These historical causes brought together various facets of Assamese society and played a crucial role in shaping their collective consciousness. However, it is important to acknowledge that the Assamese identity is not static and has evolved over time, incorporating diverse influences and contributions from different communities.

⁷⁷ Ibid.

⁷⁸ S.K. Chatterji, *The Place of Assam in the History and Civilisation of India* (University of Gauhati 1955).

⁷⁹ Ibid.

⁸⁰ cf Misra (n 54).

⁸¹ Ibid 265.

In conclusion, Pisharoty's interpretation of khilonjia and the exclusion of certain regions and communities from the Assamese identity have political implications. The Assamese identity is heterogeneous, encompassing contributions from various ethnic groups and communities. The accommodating nature of the Assamese people and the historical factors that shaped their national consciousness illustrate the dynamic and evolving nature of the Assamese identity.⁸² It is crucial to recognize the complex historical and cultural dynamics that have influenced the formation of the Assamese identity, avoiding a monolithic viewpoint and promoting inclusivity.

Recent research conducted by Yasmin Saikia reveals that there is no evidence of a community based on language in Assam prior to the arrival of the British. The earliest mention of a group identifying as “Assamese” can be traced back to the nineteenth century. Saikia's study, based on an examination of Buranjis, the documented histories of the time, suggests that the society before British intervention was fluid, with the monarch or Swargadeo serving as the only legitimate center of community identity.⁸³

Interestingly, even the medieval chronicles of the Mughal era, which provide some of the oldest sources referring to “Assam,” do not mention the term “Assamese.” The name “Acham” is used in the Baharistan-i-Ghaybi of Alauddin Isfahan and Shihabuddin Talish's Fathiyah-I-Ibriyah to describe the people under the Swargadeo. It is only through Glanius, a Dutch mercenary who traveled to Assam with Mir Jumla, that the term “the people of Assam” is introduced in European accounts.

The lack of a clear and definitive definition of the Assamese identity is highlighted by Udayon Misra. He introduces the term “indigenous Assamese,” referring to individuals who claim ‘Assamese as their mother tongue’, while acknowledging the composite nature of the Assamese identity. This demonstrates the inherent difficulties in defining the Assamese identity.

These findings raise important questions. If the Assamese identity is composite, what specific role does the Assamese language or the Vaishnava Hindu religion play in establishing the boundaries of the community? Moreover, is there still instability within the Assamese community? Is the identity still evolving?

⁸² cf Misra (n 54).

⁸³ cf Chatterji (n 78).

The composite nature of the Assamese identity suggests that it encompasses various ethnic, linguistic, and cultural groups. It is a complex tapestry woven together by historical, social, and political factors. The Assamese language and the Vaishnava Hindu religion have certainly played significant roles in shaping aspects of the community's identity, but they cannot be considered exclusive markers.⁸⁴

It is likely that the Assamese identity continues to evolve as society progresses and encounters new challenges. The fluidity of the identity before the British arrival suggests that it has always been subject to change and adaptation. The ongoing dynamics within the Assamese community, influenced by factors such as migration, intercultural interactions, and globalization, contribute to the continued evolution of the identity.⁸⁵

Over the past century, the Assamese identity has undergone significant changes, largely influenced by demographic shifts in the region. These changes have had a profound impact on the overall demographic and cultural makeup of the Assamese population. The fear of losing their identity among native Assamese individuals is closely linked to the expansion of the socio-cultural base of the Assamese community. This expansion includes individuals from other linguistic groups who, for political or personal reasons, choose to identify themselves as Assamese. This shift in the Assamese identity has initiated a phase of substantial transformation that will inevitably affect the language and culture of Assam.

Sanjib Baruah's work on this issue is of great importance. The state, in its struggle against what Baruah terms "Assamese subnationalism" and social control, appears to have adopted a distinction between "ethnic Assamese" and the various "immigrant" and "tribal" communities of Assam. The fact that the author accepts this classification indicates the presence of an "ethnic Assamese" core population within a composite collective, which is relevant to understanding the issue at hand.⁸⁶

Udayon Misra's definition, which considers individuals claiming the "Assamese language as their mother tongue" while acknowledging the composite aspect of the Assamese identity, resonates strongly with the researcher. Language plays a crucial role in the emotional connection and sense

⁸⁴ cf Goswami (n 53).

⁸⁵ cf Biswas (n 38).

⁸⁶ cf Gohain (n 51).

of unity among the people of Assam. The cultural significance of Bihu and the Vaishnava Hindu religion further contribute to this connectivity. Therefore, language holds paramount importance in identifying an individual as “Assamese”.⁸⁷

However, while recognizing the composite nature of the Assamese community, it is essential to strike a balance that prevents the inclusion of too many individuals, which could dilute the core elements of this identity. The initial aim of protecting the Assamese identity must be upheld. Hence, although the composite nature of the Assamese community is significant, it should not allow for the disintegration of the fundamental nature of the identity. Consequently, identifying a specific time period, at least for current legal safeguards, not only simplifies the process of defining and compiling the Assamese identity but also establishes a robust pathway to safeguard the ideals of this identity.⁸⁸

In summary, the Assamese identity has undergone significant changes in recent decades due to demographic shifts and the inclusion of individuals from diverse linguistic backgrounds. The fear of losing identity is rooted in the expansion of the Assamese community and its evolving socio-cultural base. Language, particularly the Assamese language, holds immense importance in defining the identity, along with cultural practices such as Bihu and the Vaishnava Hindu religion.⁸⁹ While embracing the composite nature of the Assamese community, it is crucial to maintain the core elements of the identity. Establishing a specific time period for defining the Assamese identity can simplify the process and provide a robust foundation for protecting its ideals.

⁸⁷cf Biswas (n 38).

⁸⁸ cf Misra (n 54).

⁸⁹ cf Baruah (n 12).

3. LAND ENCROACHMENT BY ILLEGAL IMMIGRANTS IN ASSAM

Since the British conquest of the province in 1826, the state of Assam has long been a destination for major migration from other parts of India, notably Bengal. This movement has been on-going for a very long time.⁹⁰ However, after the country's independence, this movement took on a new character with the rise of illegal immigration from Bangladesh (which was then known as East Pakistan). This immigration was a result of the country's separation from Pakistan.

Between the years 1901 and 2001, the total population of the country increased by a sizeable 331%, whereas the population of the state of Assam rose by a mind-boggling 710% over the same time period.⁹¹ It is essential to do research on the historical backdrop of immigration to Assam in order to have an accurate understanding of the size of the movement that has taken place there.

3.1 PRE-INDEPENDENCE MIGRATION TO ASSAM

Scholars have given the state of Assam the nickname of “the melting pot” due to the fact that migration to the state previous to independence was characterised by the absorption of many cultural streams.⁹² Both the Indo-Aryan and the Austro-Mongoloid groups were able to assimilate without any problems into Assamese civilization.

The Assamese people have gained widespread recognition and admiration for their inclusive mentality, which embraces cultural and linguistic variety within their own fabric. This trait has been extensively recognised and praised. Udayon Mishra refers to the process of assimilating the Ahom people, who were indigenous to Upper Burma and had unique cultural, religious, and linguistic identities, into Assamese culture as the “Assamisation of the Ahoms”. The Ahom people originally came from Upper Burma and held distinct cultural, religious, and linguistic identities.

Even before India achieved its independence, the state of Assam was already seeing a considerable inflow of new residents. After receiving the ‘Dewany of Bengal Suba’ from the Mughal Emperor Shah Alam, the British were able to conquer the Goalpara and Sylhet districts

⁹⁰ Protim Sharma, ‘Problem Of Immigration And Quest For Identity In Assam, India’ (2015) *Humanities and Social Sciences Review* 423, 424.

⁹¹ Amlendu Guha, *Planter Raj to Swaraj: Freedom Struggle and Electoral Politics in Assam 1826–1947* (Tulika Books 2006).

⁹² cf Misra (n 54) 1265.

in Assam as early as 1765⁹³. However, the British did not legally take possession of the country until 1826, which was after the end of the First Anglo-Burmese War.⁹⁴ This war took place between the British and the Burmese. As a direct result of the East India Company's participation in the conflict, the Burmese possession of the state was handed over to the East India Company as part of the terms of the 'Treaty of Yandabo', which was signed on February 24, 1826.⁹⁵

The British were given complete control over Assam and its future as a consequence of the transfer of sovereignty. The indigenous Assamese population was progressively supplanted as the British government followed a policy that, over the course of time, consisted of gradually overshadowing the indigenous Assamese population by gradually attracting people from other regions of undivided India to move to Assam.

The primary purpose of this approach was to increase productivity in the tea gardens. As a direct result of this, beginning in the year 1826, the sparsely populated Brahmaputra valley began to receive an inflow of talented and hardworking immigrants from Bengal.⁹⁶ As a result of this, the area was able to foster the development of a commercial agricultural sector, which in turn caused Assam to become the Indian province with the greatest rate of population increase.⁹⁷

Around the year 1891, Assam's vast amounts of unused and fallow land started to attract Muslim peasants who had previously resided in the eastern region of the Bengal Presidency.⁹⁸ These individuals had been displaced from their original homes.

Because of its economic interests, the East India Company aggressively pushed landless farmers from East Bengal to migrate to Assam. The majority of these migrants were Muslims.⁹⁹ As a direct consequence of this, population pressure and a lack of available land started to become noticeable as early as 1911.¹⁰⁰

⁹³ Manilal Bose, *Social History of Assam: Being a Study of the Origins of Ethnic Identity and Social Tension During the British Period, 1905-1947* (Concept Publishing Company 1989).

⁹⁴ Ibid.

⁹⁵ Hiranya K. Nath, 'The Rise of an Enclave Economy' in Alokesh Barua (ed), *India's North-East: Developmental Issues in a Historical Perspective* (Manohar Centre De Sciences Humaines 2005).

⁹⁶ cf Bharali (n 18) 4200.

⁹⁷ Kingskey Davis, *The Population of India and Pakistan* (Russell & Russell 1968).

⁹⁸ cf Bose (n 93).

⁹⁹ Ajoy Roy, *The Boro Imbroglia* (Spectrum Publications 1995) 28-29.

¹⁰⁰ cf Davis (n 97).

In point of fact, S.C. Mullan, the Superintendent of the Census, made the observation in 1931 that “where there is waste land, thither flock the Mymensinghias,” highlighting the emigration of people from the Mymensingh region of East Bengal.

The complex forces that have molded the demographic make-up of Assam are highlighted by the historical trajectory of migration to the state, which spans both the pre-Independence and post-Independence eras.¹⁰¹ The policies implemented by the British colonial government, the availability of economic incentives, and the availability of land all played key roles in the process of recruiting migrants from various parts of India and, more recently, from Bangladesh.

It is essential to have a solid grasp of the historical setting of this movement in order to have a complete understanding of the difficulties and ramifications related with the changing demographics in Assam.¹⁰²

Growth of Bengal-Born Population in Assam, 1911-1931:

Year	Total	Mymensinghias
1911	194,000	37, 000
1921	376, 000	172, 000
1931	575, 000	311, 000

Source: Census of India, 1931, Vol.3 (Assam), Part 1

The influx of migrants in the 1930s led to the construction of numerous small thatched huts along the riverside, which quickly became a contentious issue for the local population.¹⁰³ The loss of forest areas to these migrants was perceived as intolerable by the Assamese people, sparking immediate controversy.¹⁰⁴

¹⁰¹ cf Jha (n 14).

¹⁰² B.G Verghese, *India’s Northeast Resurgent: Ethnicity, Insurgency, Development* (Konark Publishers 1996) 26.

¹⁰³ Nandita Saikia, ‘Trends in immigration from Bangladesh to Assam, 1951-2001’ (2016) IMDS Working Paper Series, 7 <<https://paa.confex.com/paa/2017/meetingapp.cgi/Paper/9807>> accessed 18 April 2023.

¹⁰⁴ U Mishra, ‘Historical Aspects of Illegal Migration from Bangladesh’ in B.B. Kumar and Astha Bharati (eds.), *Illegal Migration from Bangladesh* (Concept Publishing Company 2006) 1-8.

The fear of the Assamese population becoming a minority in their own country was recognized as early as 1931. By March 1933, the British authority had allocated a total of 47,637 acres of land to 441 Hindu and 1619 Muslim immigrants.¹⁰⁵ In the Nagaon district alone, migrants occupied 37.7% of the land by 1936, further exacerbating tensions.¹⁰⁶

It is necessary to note that migration to Assam during the colonial period cannot be classified as illegal, as people were moving within the borders of India. The distinction between legal and illegal human movements requires the establishment of a clear entry procedure and a specific date as a reference point. In the case of Assam, this crucial date was the partition of the country in 1947. Consequently, it was only after 1947 that the displacement of individuals from Bangladesh (then East Pakistan) to Assam began to be referred to as “illegal.”

The shift in terminology was significant as it denoted a change in the legal status and perception of migration from Bangladesh to Assam. Prior to 1947, the movement of people from different regions within India, including Bangladesh, was considered a natural consequence of population mobility and economic opportunities. However, with the partition of the nation and the creation of East Pakistan, which later became Bangladesh, the migration from this region to Assam was no longer seen as an internal migration within India but as an unauthorized crossing of international borders.

This shift in the legality of migration had profound implications for the demographic dynamics of Assam. The categorization of Bangladeshi migration as illegal intensified the concerns among the Assamese population about the impact on their cultural identity, political representation, and access to resources. The issue of illegal migration has since become a highly contentious and politically charged topic in Assam, shaping public discourse, policy debates, and even leading to social and ethnic tensions.¹⁰⁷ Understanding the historical context and the changing legal framework surrounding migration is crucial for comprehending the complexities and challenges associated with the issue of illegal immigration in Assam.

¹⁰⁵ Ibid.

¹⁰⁶ cf Roy (n 99).

¹⁰⁷ S Hazarika, ‘Illegal Migration from Bangladesh: Problem and Long-term Perspective’ in B.B. Kumar and Astha Bharati (eds.), *Illegal Migration from Bangladesh* (New Delhi, Concept Publishing Company 2006) 26.

3.2 POST-INDEPENDENCE ILLEGAL IMMIGRATION TO ASSAM

The problem of illegal immigration in Assam has been a persistent challenge, and various measures have been implemented over the years to address this problem. The Foreigners (Expulsion from Assam) Act, 1950, was passed by the Parliament to tackle illegal immigration, but it failed to effectively curb the inflow of undocumented migrants, resulting in the expulsion of only 354 foreigners.¹⁰⁸ In contrast, between August 15, 1947, and the beginning of 1949, an estimated 4.5 lakh Muslims entered Assam illegally. The limited success of the act highlighted the magnitude of the problem and the need for more robust measures.¹⁰⁹

Recognizing the need to control illegal infiltration, the 'Prevention of Infiltration from Pakistan Scheme' was introduced in 1964, along with the establishment of a specialized Border Police Force. The implementation of these initiatives was prompted by an anti-Hindu riot in East Pakistan, which led to a significant influx of Hindu refugees seeking shelter in Assam. However, it became evident that illegal immigration was not confined to refugees fleeing religious persecution but also included Muslim migrants driven by economic reasons.¹¹⁰

The formation of Bangladesh in 1971 following the war had a profound impact on the demographic condition of Assam. The population of the state experienced a significant surge from 146 lakh in 1971 to 224 lakh in 1991, 266 lakh in 2001, and 312 lakh in 2011.¹¹¹ The marked difference in population growth rates between the decades can be interpreted as evidence of illegal immigration. Birth rates alone cannot account for such high population growth rates during specific periods, such as 1921, 1961, 1971, and 1991.¹¹²

In 1980, the Home Ministry informed a delegation from the All Assam Students Union (AASU) that approximately 9,67,000 immigrants had arrived in Assam between 1961 and 1971.¹¹³ Another study conducted by Anil Saikia, Homeswar Goswami, and Atul Goswami revealed that

¹⁰⁸ Sanghamitra Sarma, 'Immigration Issue In Assam (1947-1957)' (2014) *Indian Journal of Political Science* 531,532.

¹⁰⁹ Ibid.

¹¹⁰ Josy Joseph, 'Securitization Of Illegal Migration of Bangladeshis To India'(2006) Institute of Defence and Strategic Studies, Singapore Working paper no. 100, 5 <<https://www.semanticscholar.org/paper/Securitization-of-illegal-migration-of-Bangladeshis-Joseph/66c78217441e7c273056faec4fe5c0bab71e593d>> accessed 16 April 2023.

¹¹¹ Census of India, 1991.

¹¹² Mrinal Sarma, 'An Analytical Study Of Illegal Migration With Special Reference To Assam' (2022) *IPLRJ* 23, 26-27.

¹¹³ cf Verghese (n 102).

a staggering 6,863,344 immigrants had entered Assam between 1971 and 1991. ¹¹⁴ These figures clearly indicate that the Assam Accord, which is the outcome of a six year long movement, failed to effectively address the issue of illegal immigration, thereby posing a threat to the survival of the state and exacerbating ethnic conflicts and socio-economic insecurities among the indigenous population. ¹¹⁵

A detailed study of the 2011 Population Census conducted by the Government of India further emphasizes the population growth in Assam. The census revealed that the population of Assam increased by 17.07% more between 2001 and 2011 compared to the previous decade (1991 to 2001). This growth rate raises concerns about the continued influx of migrants and its impact on the socio-economic fabric of the state.

The persistent challenge of illegal immigration in Assam necessitates a comprehensive and nuanced approach. The failure of past measures highlights the need for more effective strategies, including enhanced border security, improved documentation systems, and stringent enforcement of immigration laws.

Additionally, addressing the root causes that drive migration, such as economic disparities and regional conflicts, is crucial for long-term solutions. Balancing the concerns of the indigenous population while upholding humanitarian principles remains a complex task that requires careful planning, collaboration between different stakeholders, and a holistic understanding of the issue.

Districts of Assam with High Population Growth, 2011

	District	Population	Growth Rate
1.	Dhubri	1,949,258	24.44%
2.	Morigaon	957,423	23.34%
3.	Goalpara	1,008,183	22.64%

¹¹⁴ Akhil Gogoi, *Bideshee Samashya aaru Jatiya Aandolanar Path* (Akhar Prakashan Guwahati) 193.

¹¹⁵ Sandhya Goswami, 'Ethnic Conflict in Assam' (2001) *The Indian Journal of Political Science* 124, 125.

4.	Darrang	928,500	22.19%
5.	Nagaon	2,823,768	22.00%

Source: Census of India, 2011

The population growth rates in several districts of Assam, including Dhubri, Morigaon, Goalpara, Darrang, and Nagaon, have exceeded the state's growth rate of 17.07% and the national growth rate of 17.64%. This indicates a significant demographic shift in these regions. Moreover, the population density in Assam has witnessed substantial changes over the years.¹¹⁶

In 1901, Assam had a population density of 42 people per square kilometer, lower than the national average of 77 in the same year. Until 1961, Assam's population density remained below the national average. However, by 1971, the population density in Assam had risen to 186 people per square kilometer, while the national average was 177. According to the 2011 Indian census, Assam's population density further increased to 398, compared to 340 in 2001, reflecting the impact of immigration on the population dynamics of the state.¹¹⁷

The National Register of Citizens (NRC) was introduced as a mechanism to identify and differentiate between legal residents and illegal immigrants in Assam. During the NRC process, over 19 lakh individuals were excluded from the list, indicating that they were unable to prove their citizenship. However, 3,11,21,004 individuals were allowed to be included in the final NRC, leaving 19,06,657 individuals with uncertain citizenship status.¹¹⁸ These excluded individuals have been given the option to file appeals in the Foreigners' Tribunals (FTs) to contest their citizenship.

The NRC serves as further evidence of the issue of illegal immigration in Assam, particularly after 1971. This is because the cutoff date for the NRC was set as March 24, 1971, and those individuals who could not establish their presence in Assam before this date were excluded. The

¹¹⁶ Mrinal Sarma, 'An Analytical Study Of Illegal Migration With Special Reference To Assam' (2022) IPLRJ 23, 26-27.

¹¹⁷ PTI, 'NRC cut-off date likely to be pre-1971: Home Ministry sources' (*The Indian Express*, 22 November 2019) <<https://www.newindianexpress.com/nation/2019/nov/22/nrc-cut-off-date-likely-to-be-pre-1971-home-ministry-sources-2065252.html>> accessed 19 April 2023.

¹¹⁸ Utpal Parashar, 'Over 19 lakh excluded, 3.1 crore included in Assam NRC final list' (*Hindustan Times*, 24 June 2020) <<https://www.hindustantimes.com/india-news/assam-nrc-1-9-million-names-excluded-from-final-list/story-KOIZwevNzXIKgrhpbDZv1O.html>> accessed 18 April 2023.

significant number of exclusions from the NRC reinforces concerns about the scale of illegal immigration in the state.

The implementation of the NRC aimed to address the long-standing issue of illegal immigration and its impact on the socio-political landscape of Assam. However, the process itself has been highly contentious, leading to widespread debates, protests, and concerns about its effectiveness and fairness.¹¹⁹ Critics argue that the NRC has resulted in the exclusion of genuine citizens while failing to adequately identify and address the problem of illegal immigrants.¹²⁰

The demographic changes and the exclusion of a large number of individuals from the NRC have heightened apprehensions about the survival and identity of the indigenous population in Assam. The fear of becoming a minority in their own land has fueled tensions, ethnic conflicts, and socio-economic insecurities. The issue of illegal immigration in Assam is deeply intertwined with questions of identity, political representation, and resource allocation.

Addressing the complex challenge of illegal immigration in Assam requires a multi-faceted approach. It necessitates a balance between humanitarian considerations and safeguarding the interests of the indigenous population. Robust mechanisms for identifying and differentiating between genuine citizens and illegal immigrants should be established, ensuring fairness, transparency, and inclusivity.

Moreover, efforts should be made to address the root causes of migration, such as economic disparities and regional conflicts, through comprehensive development programs and diplomacy.¹²¹ Collaboration between the central and state governments, civil society organizations, and local communities is crucial for implementing effective policies and initiatives that can address the issue of illegal immigration while promoting harmony and socio-economic progress in Assam.

¹¹⁹ Sanghamitra Sarma, 'Immigration Issue In Assam (1947-1957)' (2014) *Indian Journal of Political Science* 531,532.

¹²⁰ Ibid.

¹²¹ Madhmsmita Sarma, 'A Study of Migration from Bangladesh to Assam, India and Its Impact' (DPhil thesis, University of Adelaide 2015).

3.3 LAND ENCROACHMENT AND ILLEGAL SETTLEMENT

Assam, being a state with ample public lands, provides opportunities for settlement and cultivation. The vast riverine deltas of the Brahmaputra and other major rivers in Assam have historically remained uninhabited, offering potential for migration and colonization. Additionally, large forested areas across the state have served as potential areas for settlement. Due to limited opposition and enforcement, immigrants, both historically and presently, have been able to encroach upon these uninhabited and forested lands in Assam.¹²²

While the majority of land in Assam is still owned by native inhabitants, there is a growing concern regarding the increasing land ownership by immigrants.¹²³ Although immigrants initially settle on unstable terrains and possess limited landholdings, their rapid rate of development and expansion is alarming.¹²⁴ This trend indicates that if unchecked, immigrants may acquire substantial landholdings in the state in the future.

The evidence presented in the case of *Sarbananda Sonowal v. Union of India & Anr*¹²⁵, including the report of the Governor, affidavits, and other documents submitted to the Supreme Court, shed light on the issue of unlawful migration and land acquisition by Bangladeshi residents in Assam. These individuals have reportedly crossed the international boundary illegally and taken possession of significant tracts of land, including “Char land”, which refers to barren or cultivable land.

The encroachment of public lands and the acquisition of land by immigrants in Assam have serious implications. It not only affects the availability of land resources for the indigenous population but also raises concerns about issues such as environmental degradation, displacement of local communities, and the loss of cultural and social cohesion. Addressing this issue requires effective monitoring, enforcement of land ownership laws, and measures to protect the rights and interests of the native population while ensuring a fair and just approach towards immigrants.

¹²² Hiranya K. Nath, ‘Illegal Migration into Assam: Magnitude, Causes, and Economic Consequences’ (2010) SHSU Economics & Intl. Business Working Paper No. 10-06, 22 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1750383> assessed 12 April 2023.

¹²³ cf Saikia (n 103).

¹²⁴ cf Saikia (n 103).

¹²⁵ *Sarbananda Sonowal v. Union of India & Anr*, A.I.R. 2005 5 SCC 665.

Efforts should be made to strike a balance between accommodating genuine immigrants and safeguarding the interests of the indigenous population. This can be achieved through comprehensive land policies, improved border security measures, and the implementation of robust land ownership registration systems. Collaborative efforts between the central and state governments, as well as engagement with local communities and civil society organizations, are essential for developing sustainable solutions that address the issue of land acquisition by immigrants while promoting harmony and equitable development in Assam.

The impact of illegal immigration and encroachment on land in Assam is evident in several districts, as highlighted by the Census statistics from 2011. Barpeta, Bongaigaon, Darrang, Dhubri, Goalpara, Hailakandi, Karimganj, Morigaon, and Nagaon are among the most severely affected districts.¹²⁶ In addition, the Sonitpur district, particularly the vicinity of Tezpur on the north bank of the Brahmaputra, has witnessed a significant influx of undocumented Bangladeshis.¹²⁷ This migration has led to encroachment on various types of government land, including wetlands, forests, reserved areas, and natural floodwater drains, as revealed by official records in five revenue circles of the district—Balijana, Matia, Lakhipur, Dudhnoi, and Rongjuli.¹²⁸ It is important to note that a comprehensive assessment of land loss due to demographic invasion by illegal immigrants has not been conducted in certain districts such as Dhubri, Barpeta, Goalpara, South Salmara-Mankachar, and Nagaon.¹²⁹

Recognizing the urgency of addressing land rights and protecting indigenous people, the Assam government established the Brahma Committee in 2017, chaired by former CEC Hari Shankar Brahma. The committee utilized the National Register of Citizens (NRC) definition of citizenship to estimate the extent of land encroachment by individuals with questionable citizenship. According to its 2017 report, encroachers had unlawfully occupied approximately 63 lakh bighas (20.83 lakh acres) of public land across the state, including forest land, grazing grounds, and

¹²⁶ Ankita Dutta, 'Illegal land grabbing in Assam: An existential crisis' (India Today, 6 October 2021) <<https://www.indiatoday.in/news-analysis/story/assam-illegal-land-grabbing-eviction-drive-existential-crisis-1861298-2021-10-06>> accessed 18 April 2023.

¹²⁷ Ibid.

¹²⁸ Ibid.

¹²⁹ Ankita Dutta, 'How Serious is the Problem of Land Encroachment in Assam?' (Myindmakers, 9 October 2021) <<https://www.myind.net/Home/viewArticle/how-serious-is-the-problem-of-land-encroachment-in-assam>> accessed 17 April 2023.

other areas.¹³⁰ This land mass is equivalent to twice the size of Goa. Alarming, a significant portion of the encroached land encompasses 3,172 sq km of forest land, posing a threat to the state's ecological balance.¹³¹ Additionally, Vaishnavitesatras and other temples have also fallen victim to illegal occupation, further exacerbating the issue.

To counter the encroachment and restore land rights, the government initiated campaigns to evict squatters from historically significant sites such as Srimanta Sankardeva's birthplace, Batadraba Than, and the renowned Kaziranga National Park. These initiatives reflect the determination to reclaim illegally occupied land and protect the cultural and environmental heritage of Assam.¹³²

However, addressing the problem of land encroachment requires a comprehensive and multi-faceted approach. It necessitates stringent border security measures, effective implementation of land ownership laws, and regular monitoring of land use patterns. The government should prioritize conducting thorough assessments of the extent of land loss caused by illegal immigration in districts where such data is lacking. This information is crucial for formulating targeted strategies to regain control over encroached lands.

Moreover, efforts should be directed towards creating awareness among the local population about the importance of preserving their land rights and reporting instances of encroachment. Collaborative initiatives involving government authorities, community leaders, and civil society organizations can play a significant role in addressing the challenges posed by illegal immigration and encroachment. Additionally, capacity-building programs can be implemented to empower indigenous communities to protect their land rights through legal means.

Safeguarding land resources and ensuring equitable land distribution are essential for maintaining social harmony, protecting the environment, and upholding the rights of the indigenous population in Assam.¹³³ By addressing the issue of land encroachment caused by

¹³⁰Jayanta Kalita, 'Northeast Diary: How significant is Assam's new tribal land policy?' (TOI, 6 August 2022) <<https://timesofindia.indiatimes.com/india/northeast-diary-how-significant-is-assams-new-tribal-land-policy/articleshow/93387018.cms>> accessed 19 April 2023.

¹³¹Prabin Kalita, 'Twice the area of Goa under encroachment in Assam' (TOI, 25 September 2021) <<https://timesofindia.indiatimes.com/city/guwahati/twice-the-area-of-go-a-under-encroachment-in-assam/articleshow/86498587.cms>> accessed 19 April 2023.

¹³² Ibid.

¹³³ Ibid.

illegal immigration, the government can foster a sustainable future for the state, where both indigenous communities and immigrants can coexist within the boundaries of the law.

3.3.1 Char Land

The chars, which are riverine islands formed by silt deposits in the Brahmaputra River, are highly susceptible to constant changes due to the deposition and erosion processes. These land masses undergo alterations practically every year, mirroring the dynamic nature of the river itself.

Approximately 4.5% of Assam's population resides in the char areas, highlighting their significance in the state.¹³⁴ The population in these regions was recorded at 24.9 lakhs in total during 2003-2004, with staggering growth rates observed in various districts. For instance, Dhubri experienced a remarkable growth rate of 195.83% between 1992 and 2003, followed by Morigaon (75.10%), Nagaon (98.85%), Jorhat (51.58%), Sonitpur (58.30%), and Tinsukia (59.25%).¹³⁵

The chars have become a destination for suspected Bangladeshi immigrants who continue to migrate into these areas. According to intelligence sources, these undocumented residents engage in various criminal activities, including rhino poaching, the circulation of counterfeit currency, burglaries, theft, and extortion. Numerous chars and chaporis, including Tin-Tikia, Rani Tapu, Gai Tapu, Majbali Char, Kochmora Chapori, Lawkhowa Chapori, Burha Chapori, Kalibari Tapu, Gudam Ghat, Jahajghat Tapu, Dakhin Bali, Baghey Tapu, Habu Char, Islam Tapu, Akel Char, bu Char, and Singri Gupteswar Temple and the vicinity, have experienced an influx of alleged Bangladeshi individuals, causing major worries among those who live there.¹³⁶

From Dhubri to Sadiya, the Char villages span a total area of 3,609.27 sq. km as of 2003–2004, representing 4.60% of the state's physical area.¹³⁷ The Brahma Committee, in its report, highlighted that illegal immigrants, predominantly of Bangladeshi origin or illegal Bangladeshis,

¹³⁴ Bidyut Sagar Boruah, ‘‘In the womb of the Brahmaputra’’: A flawed land policy lies behind violent eviction drives in Assam’ (Scroll, 24 April, 2023) <<https://scroll.in/article/1007626/in-the-womb-of-the-brahmaputra-a-flawed-land-policy-lies-behind-violent-eviction-drives-in-assam>> accessed 16 April 2023.

¹³⁵ Brahma Committee Report, 72.

¹³⁶ Ibid.

¹³⁷ Brahma Committee Report, 71.

have encroached upon and inhabited the entire length and breadth of the Char areas. It was found that 99% of the char population consists of these illegal immigrants.¹³⁸

Disturbingly, an organized group called Matabbar or Dewani has emerged as a de facto governing body in these regions, assuming the role of the government by distributing land and arranging land allotments. The lack of public awareness or government oversight over these vast tracts of char land provides a conducive environment for these individuals to continue their illegal and criminal activities. Consequently, the government needs to take strong and efficient measures to curb such mischief and deception.

These realities serve as significant evidence of the infiltration and encroachment on public lands in Assam. The issue of illegal immigrants settling in the chars not only poses a threat to the socio-cultural fabric of the region but also exacerbates concerns regarding law and order, as criminal activities are being perpetrated.¹³⁹

It is imperative for the government to take decisive action, including enhanced surveillance, border security measures, and strict enforcement of land ownership laws, to protect the integrity of public lands and safeguard the rights of the indigenous population. Furthermore, proactive efforts should be made to raise public awareness about the issue and promote community participation in reporting and preventing encroachments. By addressing this problem at its root, Assam can ensure the preservation of its land resources, maintain social harmony, and protect the interests of its citizens.

3.3.2 Forest Land

The dense forest cover in and around Darang is facing rapid depletion due to human encroachment. According to the Brahma Committee Report, Assam has the highest rate of forest land encroachment in the country, with more than 3,172 sq km of illegally occupied forest land.

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¹³⁸ Brahma Committee Report, 129.

¹³⁹ Bidyut Sagar Boruah, ‘‘In the womb of the Brahmaputra’’: A flawed land policy lies behind violent eviction drives in Assam’(Scroll, 24 April, 2023) <<https://scroll.in/article/1007626/in-the-womb-of-the-brahmaputra-a-flawed-land-policy-lies-behind-violent-eviction-drives-in-assam>> accessed 16 April 2023.

¹⁴⁰ PTI, ‘Over 3,700 sqkm of Assam’s forest land illegally occupied: Centre’ (TOI, 23 December 2022) <https://timesofindia.indiatimes.com/city/guwahati/over-3700-sqkm-of-assams-forest-land-illegally-occupied-centre/articleshow/96187216.cms> accessed 19 April 2023.

The Minister of Parliamentary Affairs for Assam, Chandra Mohan Patowary, has stated that approximately 22% of the state's forest land has been taken over by illegal immigrants. In specific instances, government reports indicate that migrants from Muslim-majority countries have encroached on 3953 acres of land in the Lumding forest reserve.¹⁴¹ This encroachment poses a serious threat to the region's biodiversity and ecological balance.

Large swaths of forested terrain were cleared by the immigrants in order to make room for new settlements and agricultural land. The percentage of the state's landmass that is covered by forests has decreased from 39% in 1951-1952 to approximately 30% today.¹⁴²

The alarming rate of deforestation and illegal occupation of forest land in Assam, particularly in the Darang district, is a pressing issue that demands immediate attention. The significant extent of encroachment, as highlighted in the Brahma Committee Report, reflects the magnitude of the problem. With over half of the country's total forest land under encroachment, Assam is particularly vulnerable to this issue. The encroachment by illegal immigrants, including the occupation of 3953 acres in the Lumding forest reserve, further exacerbates the environmental concerns. It is crucial for the government and relevant authorities to take stringent measures to curb illegal encroachments, protect forest resources, and restore the ecological balance in the region. The Forest (Conservation) Act of 1980 has been violated by these immigrants in these situations.

3.3.3 Satra Land

The Brahma Committee assessment revealed a distressing reality regarding the cultural heritage of Assam. It stated that the identity and existence of as many as 18 Satras, which are revered Vaishnavite monasteries and crucial cultural centers in the region, were under threat due to the unchecked spread of unauthorized Bangladeshi immigrants. These Satras hold immense historical and religious significance, acting as custodians of Assam's rich cultural heritage.

¹⁴¹ Dibya Kamal Bordoloi, 'Can't allow illegal land grabbing by illegal immigrants anymore.' (Organiser 4 October 2021) <<https://organiser.org/2021/10/04/19068/bharat/can-t-allow-illegal-land-grabbing-by-illegal-immigrants-anymore/>> accessed 19 April 2023.

¹⁴² PTI, 'Over 22% of Assam's total forest land currently under encroachment: Minister' (Indian Express, 22 February, 2019) <<https://indianexpress.com/article/north-east-india/assam/over-22-pc-of-assams-total-forest-land-currently-under-encroachment-minister5597209/>> accessed 19 April 2023.

The encroachment by unauthorized immigrants poses a significant risk to the integrity and survival of these sacred institutions. The presence of unregulated settlements and occupation of land by immigrants in the vicinity of the Satras not only disrupts the peaceful atmosphere but also poses a threat to the preservation of their religious practices and traditions. The infiltration of individuals from Bangladesh into these areas undermines the sanctity and authenticity of the Satras, endangering their cultural significance and historical legacy.¹⁴³

Efforts must be made to protect and preserve these Satras, which are not only religious institutions but also important centers for the promotion of art, literature, and spirituality. Recognizing the critical importance of safeguarding these cultural treasures, it becomes imperative for authorities to address the encroachment issue and ensure the preservation of Assam's vibrant cultural heritage for future generations.¹⁴⁴

	Satra	District	Area under Encroachment
1.	Ram Rai Kuthi (Satrasaal) Satra	Dhubri	162 bighas
2.	Barpeta Satra	Barpeta	1000 bighas
3.	Paatbausi Satra	Barpeta	81 bighas
4.	Bohori Satra	Barpeta	190 bighas
5.	Jonia Satra	Barpeta	160 bighas, 2 kathas and 6 lechas
6.	Pirala Satra	Barpeta	101 bighas 9 lechas
7.	Kobaikata Sutra	Morigaon	180 bighas

¹⁴³ Kaushik Deka, 'Assam's eviction drive that turned violent is about land and livelihood, not religious intolerance' (India Today, 25 September 2021) <<https://www.indiatoday.in/news-analysis/story/assam-s-eviction-drive-that-turned-violent-is-about-land-and-livelihood-not-religious-intolerance-1856962-2021-09-24>> accessed 19 April 2023.

¹⁴⁴ Ibid.

8.	Ali Pukhuri (Patekibori) Satra	Morigaon	65 bighas1 katha 12 lechas
9.	Bordowa Satra	Nagaon	221 bighas
10.	Bali Satra	Nagaon	400 bighas
11.	Rampur Satra	Nagaon	548 bighas
12.	Adi Elengi Satra	Lakhimpur	1900 bighas
13.	Bor Elengi Satra	Lakhimpur	500 bighas

Source: Brahma Committee Report, 2017

According to the general secretary of Bardowa “Thaan,” the encroachment issue on Satra properties is not an isolated incident. He recalls that approximately 15 years ago, two Muslim families initially started residing on the Bardowa Satra property. Over time, more community members joined them, leading to an increase in their numbers. However, three years ago, the government took decisive action and forcibly removed them. Today, efforts are being made to develop the Bardowa Satra with the construction of a border wall and other essential infrastructure, which has come at a significant cost of 155 crore.¹⁴⁵

Similar incidents have occurred in other Satras as well. Around 50 years ago, Rampur Satra's property was encroached upon, resulting in the establishment of numerous settlements that have grown into a vast village over time. Additionally, during the Assam Agitation in the early 1980s, Kubaikota Satra's land also faced occupation. Some safeguards for the Satras have also been given in the “Assam State Acquisition of Lands Belonging to Religious and Charitable Institutions of Public Nature Act, 1959”.

¹⁴⁵ Ibid.

These examples highlight the persistent issue of encroachment on Satra properties in Assam. The encroachment not only undermines the cultural and religious significance of these Satras but also poses a threat to their very existence. The cases of Bardowa, Rampur, and Kubaikota Satras serve as reminders of the ongoing challenges faced by these institutions and the need for continued efforts to protect and preserve their heritage.

3.4 IMPLICATIONS OF ILLEGAL ENCROACHMENT ON THE STATE AND ITS PEOPLE

The vast influx of unauthorized Bangladeshi immigrants into India, particularly in the bordering states, has become a significant and multifaceted problem. It has deeply impacted the country's resources and sense of security, while also causing a dramatic shift in the demographics of the northeastern states, where indigenous populations often feel overwhelmed by the presence of foreign migrants.¹⁴⁶ The implications of this issue extend beyond social concerns and encompass economic aspects as well.

The continuous and illegal influx of Bangladeshi population, coupled with rapid land alienation, ineffective government policies, and escalating socio-ethnic conflicts arising from socio-economic insecurity, are among the most pressing concerns for Assam today. These challenges raise serious questions about the preservation of the demographic composition of the indigenous populations, who belong to various ethnic tribes.¹⁴⁷

The struggles faced by the indigenous Mishing people serve as a poignant example. They had to fight for their rights over the riverine areas, contending with Bangladeshi illegal migrants. However, they eventually had to surrender to the aggression of land-hungry East Bengali peasants. Similarly, the Tiwas and the Bodo community have suffered severe setbacks due to land encroachment by illegal immigrants from East Bengal.

The repercussions of neglecting these issues can be devastating, often leading to violence and conflict. One such incident took place in Nellie on February 18, 1983, when an indigenous tribal group known as Lalung, or Tiwa, launched a brutal attack on illegal immigrants, fueled by their long-standing grudge over land encroachment. The official death toll was reported as 1,200, but

¹⁴⁶ M Mayilvaganan, 'Illegal Migration and Strategic Challenges: A Case Study of Undocumented Migration from Bangladesh to India' (2019) *Artha-Journal of Social Sciences* 25.

¹⁴⁷ Bitupan Doley, 'Migration Into Assam And Its Political And Social Impacts On Society' (2020) *European Journal of Molecular & Clinical Medicine* 3064.

journalist reports suggest that the actual number could be as high as 3,000. In response, armed groups composed of tribal Assamese speakers targeted and eliminated dozens of Bengali Muslim voters in various locations. Similarly, the violence between Muslims and Bodos in the Kokrajhar areas in 2012, which led to calls for an independent Bodoland, exemplifies the state's law and order crisis resulting from illegal immigration.¹⁴⁸

One of the challenges in addressing this issue is the difficulty in accurately estimating the number of illegal immigrants from Bangladesh. Their covert entry and integration into local communities, facilitated by shared language and racial backgrounds, make it challenging to determine their exact numbers. Additionally, these immigrants have often availed themselves of government-run educational and healthcare facilities, as well as subsidy programs and ration supplies. Consequently, there is an additional financial burden on the state exchequer.¹⁴⁹

Moreover, the willingness of illegal immigrants to accept lower wages has resulted in the displacement of local workers in various sectors, leading to rivalry and unrest. The surge of Bangladeshi migrants, combined with disputes between indigenous tribes, has generated significant social pressure and law and order issues in Assam.

The long-term effects of immigration on Assam's demographic composition include increased diversity, political turmoil, and ethnic conflicts over the past few decades. Furthermore, illegal immigrants often gain voting rights with the assistance of influential politicians, exerting a substantial influence on the electoral politics of Assam's democratic institutions.¹⁵⁰ This has left the native population feeling uneasy, apprehensive, and even displaced in their own territories, resulting in inter-community migrations within districts and regions.

The massive influx of immigrants also places immense strain on land resources, as seen in Northeastern India. The immigrants' acquisition of land, primarily for agricultural purposes, has both direct and indirect effects on agricultural production. This encroachment has led to ethnic strife and ecological devastation, with Assam experiencing a significant decline in forest cover

¹⁴⁸ cf Roy (n 99).

¹⁴⁹ Bitupan Doley, 'Migration Into Assam And Its Political And Social Impacts On Society' (2020) *European Journal of Molecular & Clinical Medicine* 3064.

¹⁵⁰ Mrinal Sarma, 'An Analytical Study Of Illegal Migration With Special Reference To Assam' (2022) *IPLRJ* 23, 26-27.

from over 30% to less than 20%. This loss of forests has resulted in a profound ecological imbalance, impacting weather patterns, freshwater ecosystems, and wildlife populations, including endangered species.¹⁵¹

Furthermore, immigrants encroaching on tribal lands designated for Assam's indigenous population have contributed to ethnic tensions and militancy in the region, further hampering agricultural productivity. The economic implications of this issue are compounded by the fact that illegal immigrants often evade taxes, while the government allocates significant funds to provide them with essential infrastructure and support through specialized departments and subsidies.¹⁵²

Because of their covert admission and the ease with which they integrate into the local populations, it is difficult to acquire a fair estimate of the number of illegal immigrants from Bangladesh who are living in India. This is made possible by the fact that they share a common language and racial heritage.¹⁵³ This makes it difficult for authorities to accurately track their numbers and implement effective immigration control measures. The consequences of this unregulated influx are not only social but also have significant economic implications for the affected regions.

In addition to the challenges posed by their covert entry, illegal immigrants from Bangladesh often access education and medical care through government-run schools and clinics. They also benefit from government subsidy programs and ration supplies designed to support the marginalized sections of society. These benefits, intended for Indian citizens and authorized immigrants, place an additional financial burden on the state exchequer. The provision of education, healthcare, and subsidies to illegal immigrants diverts resources that could have been utilized for the welfare and development of the indigenous population.

Furthermore, the willingness of illegal immigrants to accept lower wages makes them attractive to employers seeking cheap labor. This has led to the displacement of local workers who were already employed, resulting in economic rivalry and social strife in certain regions. The fear of

¹⁵¹ M Mayilvaganan, 'Illegal Migration and Strategic Challenges: A Case Study of Undocumented Migration from Bangladesh to India' (2019) *Artha-Journal of Social Sciences* 25.

¹⁵² *Ibid.*

¹⁵³ *Assam Sanmilita Mahasangha & Ors. v. Union of India*, 2015 (I) AD (SC) 466.

losing livelihood opportunities to illegal immigrants has created tension and unrest among the indigenous population, particularly in areas like Assam. The surge of Bangladeshi migrants, combined with existing disputes with indigenous tribes, has added to the social pressure and subsequent law and order issues in these regions.

The long-term effects of immigration on Assam's demographic composition are profound. The influx of immigrants, both legal and illegal, has led to greater diversity in the region. However, this diversity has also been accompanied by political upheaval and ethnic conflicts over the past 25 years.¹⁵⁴

The ability of illegal immigrants to obtain voting rights with the assistance of influential politicians has had a significant impact on the electoral politics of Assam's democratic institutions. The unchecked encroachments and expansions of immigrants have created a sense of unease, apprehension, and even fear among the native population, causing them to feel marginalized in their own territories. Consequently, there has been a significant exodus of locals from one community to another and sometimes even from one district to another, as they seek a sense of security and belonging.¹⁵⁵

The massive immigration from Bangladesh places a considerable strain on land resources, particularly in Northeastern India.¹⁵⁶ Land acquisition and settlement are among the primary reasons people emigrate from Bangladesh, and as many immigrants work in agriculture, this high demand for land has direct and indirect effects on agricultural production. The encroachment on land by illegal immigrants disrupts the existing agricultural practices and poses challenges to the productivity and sustainability of the sector.

Moreover, the influx of immigrants has resulted in ethnic strife and ecological devastation. The loss of forest cover in Assam, which has decreased from over 30% to less than 20%, has led to a significant ecological imbalance in the region. The encroachment on forest lands by immigrants

¹⁵⁴ Hiranya K. Nath, 'Illegal Migration into Assam: Magnitude, Causes, and Economic Consequences' (2010) SHSU Economics & Intl. Business Working Paper No. 10-06, 22 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1750383> assessed 12 April 2023.

¹⁵⁵ M Mayilvaganan, 'Illegal Migration and Strategic Challenges: A Case Study of Undocumented Migration from Bangladesh to India' (2019) *Artha-Journal of Social Sciences* 25.

¹⁵⁶ P. D. Saikia, "Present and Future of Northeast India: Land and Population Explosion" in B.L. Abbi (ed), *Northeast Region: Problems and Prospects of Development* (Center for Research in Rural and Industrial Development 1984).

has disrupted the delicate ecosystem, affecting weather patterns, freshwater ecosystems, and wildlife populations.¹⁵⁷ Assam's forests are home to numerous endangered species, and their survival is threatened by human activities such as illegal fishing and the expansion of forest lands. Additionally, widespread deforestation caused by population pressure is expected to alter rainfall patterns and further exacerbate ecological issues.

The issue of char areas and the occupation of government land by illegal immigrants in Assam has raised significant concerns about land ownership, ecological impact, agricultural productivity, and the strain on resources. The recognition that char areas need to be thoroughly examined and that recently formed chars should be considered as government property highlights the urgency of addressing these challenges.¹⁵⁸

One of the primary consequences of illegal immigration and occupation of char areas is the steady decrease in available land. While the inheritance law partially contributes to this reduction, the ownership of arable land by immigrants cannot be overlooked. As a result, the average amount of land per person has been steadily decreasing, posing challenges to sustainable agriculture and the livelihoods of the indigenous population.

The encroachment of immigrants on riverine deltas and forest lands in Assam has had a detrimental impact on the state's ecosystem. These areas serve as crucial habitats for freshwater fish, aquatic life, and endangered wildlife species. The encroachment disrupts the delicate balance of the ecosystem and poses challenges to the survival of these species. Human activities, such as fishing and the expansion of forest lands, further threaten the ecological stability of the region. The loss of forests also contributes to long-term climate change, affecting weather patterns, agricultural productivity, and overall environmental well-being.¹⁵⁹

The occupation of char areas by illegal immigrants has not only led to ecological imbalances but also poses socio-economic challenges. The encroachment on land designated for tribal communities has caused an increase in ethnic tensions and militancy in Assam. The strain on

¹⁵⁷ Hiranya K. Nath, 'Illegal Migration into Assam: Magnitude, Causes, and Economic Consequences' (2010) SHSU Economics & Intl. Business Working Paper No. 10-06, 22 <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1750383> assessed 12 April 2023.

¹⁵⁸ cf Dutta (n 126).

¹⁵⁹ cf Saikia (n 103).

land resources and the perceived threat to indigenous identity and culture have fueled conflicts and unrest in the region. These tensions have a direct impact on agricultural productivity and the well-being of the local communities.¹⁶⁰

Furthermore, the issue of illegal immigrants not paying taxes exacerbates the economic burden on the state. As agriculture-related income, except for cash crops like tea, is not taxed, the contributions of illegal immigrants to the government's coffers are minimal. Additionally, these immigrants often engage in informal and low-paying jobs, further reducing the tax revenue.

However, the government allocates funds to provide essential infrastructure, including roads, electricity, water, and healthcare, to support the immigrant population. The financial commitment that the government has taken to help the expansion and well-being of Bangladeshi immigrants is further highlighted by the development of specialised departments such as the Char Area Development Department and the Minority Development Corporation.¹⁶¹

In addition to infrastructure development, the government also spends a significant amount of money annually on providing relief to flood victims, a large portion of whom are immigrants residing in riverine deltas. The immigrant population is also eligible to receive food subsidies through fair pricing shops. These businesses sell food at reduced prices. When all of these considerations are taken into account, the overall cost to the government of maintaining this immigrant population reaches significant proportions. The ramifications of the occupation of char areas by illegal immigrants are multi-faceted, affecting land availability, ecological stability, agricultural productivity, and socio-economic dynamics in Assam. Addressing these challenges requires comprehensive policies that involve effective land management, environmental conservation, resource allocation, and social integration. It is crucial to strike a balance between addressing the concerns of the indigenous population, ensuring ecological sustainability, and upholding the rights and well-being of authorized immigrants. A holistic approach that involves coordination between various government departments, community engagement, and dialogue is necessary to find sustainable solutions to these complexities.

¹⁶⁰ cf Dutta (n 126).

¹⁶¹ U Mishra, 'Historical Aspects of Illegal Migration from Bangladesh' in B.B. Kumar and Astha Bharati (eds.), *Illegal Migration from Bangladesh* (New Delhi, Concept Publishing Company 2006) 1-8.

4. CHANGES BROUGHT ABOUT BY ILLEGAL IMMIGRANTS IN ASSAM

Assam is home to a wide variety of unique ethnic groups and cultures and is known for its rich racial and cultural diversity. The complicated mosaic-like structure of the social system in the state, which is comprised of both tribal and non-tribal citizens, is exemplified by the state's diverse ethnic population. Assam comprises 2.39 percent of the total land area of the country and up to 3,200 miles of India's international borders with Bangladesh and Bhutan. The state's total land area is 78,438 kilometres, giving it a land size of 78,438 square kilometres.¹⁶²

This state acts as a gateway to the other Northeastern states because it is surrounded by the states of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, and West Bengal. There are two major riverine systems that dominate the physiographic of Assam: the massive Brahmaputra and its tributaries, as well as the Barak River and its tributaries. Both of these rivers originate in the Himalayas.¹⁶³ The Karbi Hills and the North Cachar Hills are both extensions of the Shillong Plateau, and they separate the valleys that are home to these two rivers. At the time, those who are indigenous to Assam can be divided into “the tribes of the Hills, the tribes of the Plains, and the nontribal inhabitants of the Plains.”¹⁶⁴

It is noteworthy to point out that, based on history, the onset of Assam's demographic convulsions may be traced back to a Muslim conquest of the Ahom kingdom in the course of the 16th century. Because of the ineffectiveness of their excursions, a sizeable portion of the Muslim community decided to leave. Their deepening connections to Assamese society gave rise to their identity, which could be described as being more Assamese than Muslim. Since then, an Assamese identity that is a hybrid has begun to take shape. This identity is made up of caste Hindus, plain tribes, and a very small percentage of Muslims.¹⁶⁵

¹⁶² cf Mudoj (n 17).

¹⁶³ Bishwajit Sonowal, ‘Immigration in Assam during Colonial rule: Its Impact on the Socio-Economic and Demography of Assam’ (2018) 3(2) International Journal of Innovative Studies in Sociology and Humanities 10, 16.

¹⁶⁴ cf Borkakoti (n 20) 30.

¹⁶⁵ cf Nath, Nath (n 15).

According to the Assam Accord, anybody who entered the country clandestinely after March 25, 1971, are considered illegal immigrants. However, those who entered the country illegally between January 1, 1966 and March 25, 1971 were not to be deported and, after 10 years, they were to be granted Indian citizenship. This was the policy that was in place.

The demographic and ethnic composition of the people in India had been shifting for a long time before the country was partitioned, and this shift had an effect on the political and economic structure.¹⁶⁶ The impacts of immigration from Bangladesh to Assam can be analyzed from a variety of perspectives, yet they are inextricably linked to one another.

Two major problems have arisen as a direct result of unlawful land occupation: the first is the widespread occupation of land by immigrants, and the second is the conflict that has arisen between native tribal groups and newcomers.¹⁶⁷ Then there are the issues regarding the identity of the indigenous people, with the struggle against foreigners being the most important and recent of these difficulties.

4.1 THE ROOT CAUSES OF ASSAM'S PROBLEMS WITH ILLEGAL IMMIGRATION

Migration from Bangladesh that is not authorized is encouraged by a number of social, economic, and environmental variables. These factors, in addition to Bangladesh's fast population expansion and the country's extraordinarily high population density that resulted from that growth, all contribute to this encouragement. The current pattern of migration provides some indication that the majority of migrants have been coming from the most disadvantaged segments of Bangladeshi society. This is supported by the fact that the majority of migrants have been arriving from Bangladesh. Some of them are unable to find work, others are unable to find land, still others have an education that is below average, and the majority of them have no education at all.¹⁶⁸

¹⁶⁶ cf Goswami (n 53).

¹⁶⁷ Post independent period during 1951-2011 the population growth of the state of Assam was 288.21% against 235.15% for all India. This high population growth trend tends to indicate large-scale immigration to the state of Assam. The ever-changing demographic and ethnic composition of people has had an effect on the political and economic set up long before the partition of India. Consequences of Bangladeshi immigration in Assam can be viewed in different ways but it cannot be separate from each other. First is the immense occupation of land by immigrants, the second is the conflict between indigenous tribals and immigrants due to unlawful land occupation, the third is the identity issue of the indigenous people, and the fourth is the most critical and most current is the movement against outsiders.

¹⁶⁸ H. Gohain, 'Once More on Ethnicity and the NorthEast' (2008) 43 Economic and Political Weekly 18, 21.

Since the unplanned and economically inefficient system of land ownership does not guarantee them a fundamental means of subsistence, many of them are obliged to leave their nation. There is a huge amount of pressure being exerted by the population in Bangladesh. The population density in 2011 rated tenth in the world, having climbed from 285 people per square kilometre in 1951 (East Pakistan) to 1146 people per square kilometre in 2011. The population density ranked tenth in the world in 2011.

The population of Bangladesh was counted at 142.3 million at the census that was carried out that same year (2011). According to the most recent version of the Bangladesh Plan, it is anticipated that the country's total population will reach 169.8 million by the year 2020. Because there is only 0.15 acres of land per person, the current man-to-land ratio is not suitable for the production of food grains in a manner that is both sufficient and environmentally friendly for such a big population. It has been demonstrated that the productivity of around 9 million square kilometres of land has already started to decline.¹⁶⁹

One further aspect that contributes to the lack of available land is the excessive subdivision of existing land. On the other hand, at the same time, India itself possesses a huge number of pull factors that are attractive to the individuals living in the nowhere stage in Bangladesh. These individuals have nothing to lose and everything to gain by migrating across the border into India because they have nowhere else to go and nothing to lose in Bangladesh.¹⁷⁰ This is a truth that is acknowledged even by the government of the Union.

In a letter that was prepared for internal distribution by the Ministry of the Home in March of 1992, the following push factors were highlighted:

- (a) A border with Bangladesh that can be crossed easily and is receptive to discussion.
- (b) Better economic opportunities.
- (c) Factors related to religion that encourages immigration.

¹⁶⁹ cf Baruah (n 62) 1206.

¹⁷⁰ cf Gohain (n 168).

(d) Favoritism displayed by political interest groups with vested interests in the outcome of an election.

(e) Immigration smuggling gangs operated by unscrupulous people who have no regard for society. However, in recent years, the primary reason for illegal migrants to travel to Assam and West Bengal has been the pursuit of low-paying professions in the labor market, particularly for those responsibilities that the native population has a dislike for completing. This is especially true for those professions in which the native population is obligated to undertake duties that they despise. This has been the case particularly in the construction industry.¹⁷¹

In addition, a sizeable number of illegal Bangladeshi migrants use the states of Assam and West Bengal as little more than a pathway on their route to major urban centers in search of low-paying labor with the assistance of local brokers.¹⁷² They do this by employing the services of local brokers. They also perform wage labor in the construction of roadways and constructions, as rickshaw pullers, and in brick kilns, in addition to their employment in agricultural fields.¹⁷³

4.2 BACKDROP OF THE ASSAM MOVEMENT AND ASSAM ACCORD

It is not hard to see the demographic shift that resulted from the migration of people from the Bengal Delta prior to the partition, as well as the subsequent illegal immigration from Bangladesh. In 1931, C.S. Mullan¹⁷⁴ made the following observation on the gravity of the situation, which he highlighted in the following lines: “I have remarked that by 1921 the first army corps of the invaders had conquered Goalpara. The second army corps which followed them in the year 1921-1931 has consolidated their position in that district and has also completed the conquest of Nowgong. The Barpeta subdivision of Kamrup has also taken to their attack and Darrang is being invaded. It is sad but by no means improbable that in another thirty years Sibsagar district is the only part of Assam in which an Assamese will find himself at home.”¹⁷⁵

R.B.Vaghaiwalla, the Census Commissioner of Independent India, was quoted as saying in the 1951 Census Report that the situation had not improved by that year. He observed that: “I have

¹⁷¹ Nazmul Hussain Laskar, ‘Illegal Migration from Bangladesh: Questions of Identity in Assam’ [2020] 8 *Intellection* 25, 35.

¹⁷² cf Baruah (n 62) 1206.

¹⁷³ *Ibid.*

¹⁷⁴ He was the Census Commissioner of India in 1931.

¹⁷⁵ Haren Kumar Hazarika, ‘Role of the press in Assam during the Assam movement on foreigners issue 1978- 85’ (DPhil thesis, Gauhati University 1989).

personally seen hundreds of persons coming on trains during the first months I held charge of Goalpara District. I had the same experience as the Deputy Commissioner in Cachar....”

It was mentioned that the results of the census in 1961 showed that Muslims made up 43.35 percent of the population in the Goalpara district, 41.2 percent in the Nowgong district, 39.2 percent in the Cachar district, and 29.3 percent in the Kamrup district. During the 1980s, only the Sibsagar district received the deployment of as many as 76,041 workers.¹⁷⁶

Even after India won its independence, there was a sizeable migration of Bengali Muslims into Assam, and the number of these people only rose after Bangladesh was founded in 1971.¹⁷⁷ Since 1971, the porous border that separates Assam and Bangladesh has allowed a significant number of Muslim immigrants to enter the country illegally from Bangladesh.

1979 saw the beginning of the Assam Agitation, which is regarded as a protest against illegal immigration in the state of Assam. Assamese citizens played a vital part in the movement's rapid expansion into a popular one, and the All Assam Students Union (AASU) and the All Assam Gana Sangram Parishad (AAGSP) were primarily in charge of this movement's leadership. This campaign was terminated on the 31st of December in 1985 when the 'Assam Accord' was signed by the leaders of the AASU-AAGSP and the Indian government.¹⁷⁸

4.3 AFTERMATH OF THE ASSAM ACCORD

In the goal of finding a solution to the issue of immigrants, the Assam Accord was signed. However, despite having signed the agreement and gone through years of implementation, the issue of unauthorised Bangladeshi immigration remains and is a significant source of concern.

Local MPs in Assam are mostly held accountable by Assamese community for their failure to take adequate measures to address the issue of “vote bank” politics and their influence on illegal immigration. Because of this, the first error on an Assam voter list was discovered in 1979, during the Mangaldoi Assembly election, when the names of 45,000 illegal immigrants were identified

¹⁷⁶ Vaghaiwalla, R.B. Census Report of 1951.

¹⁷⁷ cf Gohain (n 168).

¹⁷⁸ cf Baruah (n 62) 1206.

on the voter list.¹⁷⁹ This was the first time an error of this kind had been discovered in Assam. This was the first time that a voter list was found to be inaccurate in Assam.¹⁸⁰

Between the years 1994 and 1997, voter participation increased by 7.4% across the entirety of India; but, in the state of Assam, it increased by 20% in 57 of the state's 126 constituencies. It is probable that names were added to the voter list using questionable practices, which resulted to an increase in the number of voters in Assam compared to what would have been expected. This is the case since there was an increase in the number of candidates running for office.¹⁸¹

As a consequence of this, the topic of illegal immigration from Bangladesh frequently takes centre stage in political, economic, social, and security discourses in Assam, as residents worry about being demographically swamped by the stealth invasion from Bangladesh.

4.4 DEMOGRAPHICAL CHANGES IN ASSAM DUE TO ILLEGAL IMMIGRATION

Because of immigration from other areas, the demographic structure of Assam has altered, which on the one hand has made the area more monotonous and on the other hand raises the likelihood of ethnic disputes. Communities are in crisis, and ethnic groups are making an effort to protect and progress their own individual identities and traditions despite the fact that these groups themselves are in the midst of a crisis.

This state is home to 3,120 individuals at the core, and the religious makeup of the population is comprised of the following groups: 61.47% Hindu, 34.22% Muslim, and 3.74% Christian.¹⁸² People of many different racial groups, social castes, tribal affiliations, and linguistic families continue to call this region home. The four languages that are spoken the most often in this state are Assamese, Bengali, Hindi, and Bodo. It is essential to keep in mind that during the 1960s, the administration's primary focus was on thwarting immigration from the region that had formerly been known as East Pakistan. This is proven by the 'Prevention of Infiltration into India of Pakistani Nationals (PIP)' programme, which was an initiative of the Indian Home Ministry from 1962–1969 to detect and remove illegal immigrants from East Pakistan. It ran for a total of

¹⁷⁹ cf Guha (n 91).

¹⁸⁰ cf Hazarika (n 175).

¹⁸¹ cf Laskar (n 171).

¹⁸² Census of India, 2011.

ten years. However, this attempt was suddenly abandoned without any prior warning or explanation, leaving the door wide open for unchecked infiltration to take place.¹⁸³

The abrupt termination of the PIP in 1971 represented a lost opportunity for the state to exercise some degree of control over the flow of illegal immigrants. The unofficial estimate of the number of people that entered Assam from Bangladesh during the Bangladesh Liberation War is said to be erroneous, as it displays nine lakh immigrants whereas the actual number is likely closer to ten lakh.

There were 47,658 suspicious voters in the Mongoldoi Lok Sabha constituency alone, according to reports, and the Assam police identified all of them throughout the course of their investigation. Investigations into eighty additional Assembly districts revealed that there were six lakhs of people. In accordance with the Representation of People's Act of 1951, tribunals were established when complaints were filed with the Election Commission. However, for some strange reason, these complaints were never resolved, and the tribunals failed to come to a conclusion that made any sense.¹⁸⁴

In a matter of the Foreigner's Tribunal and others, the Guwahati High Court found that the Electoral Registration Officer had behaved in an appallingly negligent manner. The petitioners in this matter were determined to be foreigners (illegal Bangladeshi migrants) who belonged to the stream of immigration that occurred between 1966 and 1971. Their names were removed from the electoral rolls as quickly as possible and they were registered with the institution in charge of the registration of foreigners. But for seven long years, these persons who had been declared to be illegal immigrants cheerfully cast their ballots, while the office of the Electoral Officer had been asleep. This was done when the office of the Electoral Officer had been resting. In 2009, the only way their names might have been cleared was at the request of this Honourable Court. When asked why this error occurred, the flimsy "communication gap" argument was provided as an answer to the question.¹⁸⁵

¹⁸³ cf Laskar (n 171).

¹⁸⁴ Rajeev Bhattacharyya, 'Assam Turns Into Haven For Illegal migrants: A Story Of Blunders And Missed Opportunities To Resolve Vexed Issue' (FirstPost 7 August 2018) <<https://www.firstpost.com/india/assam-turns-into-haven-for-illegal-migrants-a-story-of-blundersand-missed-opportunities-to-resolve-vexed-issue-4907421.html>> accessed 18 April 2023.

¹⁸⁵ cf Borkakoti (n 20) 31.

Number of people intercepted by the BSF

Year	Detection
2011	13373
2012	10708
2013	9680
2014	8019
2015	5957
2016	4025

The Assam Police turned away 36890 newly arrived illegal immigrants between the years 1985 and 2018, the majority of them were found at or near the border. During the post-independence period, the total population of India expanded by 235.15%, whereas Assam's population increased by 288.19% during the same time period.¹⁸⁶ This quick rate of population growth in the state of Assam is probably attributable to the significant immigration that has taken place there. Because of the increasing production demand placed on land resources, there is a concealed increase in unemployment and poverty, as well as a decrease in marginal output.¹⁸⁷

The movement of people from East Bengal to Assam, which was caused by a confluence of socio-economic and political factors, had a profound impact on the demographic make-up of Assam.

Strangely, the numbers provided by the government for illegal immigrants in Assam do not correspond to the actual number of foreigners living there illegally. Regarding the nature and scale of this immigration, there is neither consensus nor conformity among the many viewpoints.¹⁸⁸

¹⁸⁶ cf Laskar (n 171).

¹⁸⁷ cf Bhattacharyya (n 184).

¹⁸⁸ cf Baruah (n 62) 1206.

It is difficult to stick to a certain set of presumptions or approach given the scope of the problem that needs to be solved. Accessibility of data is essential to this study; however, in light of the political support that this topic has received, in addition to related anomalies such as gross underreporting of migrants, readily available fake documents for obtaining citizenship, incorrect citizen registration, physical and linguistic similarities between these immigrants and some segments of the Assamese population, a lack of an adequate regulatory regime, etc., the truth has proven to be difficult to ascertain.¹⁸⁹

4.4.1 Increase in Muslim Population in Assam

Concerning the subject of immigration, the provincial ministries of Assam have never had an easy time of it. On June 1, 1940, Chief Minister Saadulla convened a conference with representatives from all parties to examine the “line system.” A government resolution was passed on June 21, 1940 in response to the government’s advocacy of a development scheme that took into account the perspectives of Assamese citizens. It agreed to move forward with a land development strategy for the purpose of supplying land to landless local people and eligible immigrants, in the order of priority, and prohibited immigrants from entering Assam after January 1, 1938 from settling on waste areas. Additionally, it determined to implement the ban.

However, the Syed Saadulla ministry fell apart just before any attempts could be made to put the plan into action. Being a state with a Hindu majority, Assam is concerned that the state would soon be ruled by Muslims as a result of the flood of illegal immigration. Assamese Muslims, many of whom had called Assam their home for decades, found themselves caught in the middle of this conflict. As soon as the governor took over the government, on March 6, 1942, he issued a decision to abandon the development project since it was detrimental to the interests of both the native people and the immigrants who had arrived there.¹⁹⁰

As soon as Saadulla came to power on August 25, 1942, a new decision on the land settlement under the motto “grow more food” was announced, and a large number of pending evictions were immediately delayed. This occurred immediately after Saadulla’s return to office. This took

¹⁸⁹ cf Mudoi (n 17).

¹⁹⁰ Hemangini Sharma, ‘A need for migration laws in India the case of illegal Bangladeshi immigrants in Assam’(DPhil thesis, Maharashtra National Law University Nagpur2021).

place. It was widely thought at the time to be a tactic on the part of the Muslim League to make it easier for additional Muslims to settle in Assam.¹⁹¹

In addition, the Viceroy made it clear that what he meant to say was “grow more Muslims” when he made his statement. In the political debate of this era, the subject of immigration continued to consume an excessive amount of time and energy. The immigration from Bengal occurred at such a rapid pace and on such a big scale that it resulted in a rise in the percentage of Muslims living in Assam from 5% to 30% between the years 1911 and 1931. This increase occurred between 1911 and 1931.

According to the census completed in 1991, four districts—Dhubri, Goalpara, Borpheta, and Hailakandi—have developed into areas with a Muslim majority. Two other districts, Nowgaon and Karimganj, should have reached this population level by the year 1998, while one district, Morigaon, is getting very close to reaching this population level.

The growth of the Muslim population in Assam and West Bengal over the past decade has been exceptionally large and cannot be explained by the normal causes of birth and death in those areas. The number of people living in Assam increased from 14.6 million to 22.4 million between 1971 and 2001. The population of Hindus increased at a rate of 41.9 percent, whereas the population of Muslims increased at a rate of 77.4 percent. Between the years 1981 and 1991, the percentage of Muslims living in Assam’s border districts of Dhubri (71%), Cachar (56%), and Karimganj (58%) increased at an exceptionally high rate.¹⁹²

Percentage Increase of Population

Districts of Assam	Muslim	Non-Muslim	Total
Barpeta	25.8	10.0	18.9
Cachar	24.6	16.0	18.9
Dhubri	29.5	7.1	22.9
Darrang	26.9	9.6	15.8

¹⁹¹ Dr. Tapashi Gupta, ‘Immigration And Its Impact On Assam’ (NE India Broadcast, 12 June 2022) <https://neindiabroadcast.com/2022/06/12/__trashed-26/> accessed 18 April 2023.

¹⁹² H. K. Barpujari, *North-East India: Problems, Policies, and Prospects : Since Independence* (Spectrum Publication 1998).

Goalpara	31.7	14.4	23.0
Hailakandi	27.2	13.3	20.9
Karimganj	29.4	14.5	21.9
Morigaon	27.2	16.3	21.2
Nagaon	32.1	11.3	22.2

Between the years 1951 and 2011, there was a significant shift in the proportion of the state's population that adhered to each of the state's recognised religions.¹⁹³

In 1951, the Hindu population was estimated to be 58.86 lakh strong, making up 66.65 percent of the entire population. In the same year, Muslims accounted for 19.95 lakh of the entire population and made up 22.60 percent of the overall population. In 2011, the total population of Hindus increased to 191.80 Lakh, while the total population of Muslims increased to 106.79 Lakh. This demonstrates a decrease in the proportionate size of the Hindu population while simultaneously demonstrating a rise in the size of the Muslim community.¹⁹⁴

To be clear, Hindus make up 61.4% of the overall population in 2011, whereas Muslims make up 34.2% of the total population. Between the years 1951 and 2011, the growth rate of the Hindu population was 225.8 percent, whereas the growth rate of the Muslim population was 435.2 percent.¹⁹⁵ This religious divide is extremely relevant in the context of migration to the state as a result of the fact that the majority of migrants are members of the Muslim community.¹⁹⁶ Consequently, given that politics in general and democracy in particular are both a game of numbers, the indigenous people of Assam are rapidly falling behind in the competition.

4.4.2 Increase in Crime Rate

Due to the struggle for their own existence, a significant number of impoverished immigrants are involved in antisocial and criminal acts. These behaviors either directly or indirectly impact society.

¹⁹³ Navnita Chadha Behera, *State, Identity & Violence: Jammu, Kashmir, and Ladakh* (Manohar Publishers & Distributors, 2000).

¹⁹⁴ cf Laskar (n 171).

¹⁹⁵ Dr. Ajit Chandra Borah, "Migration and Demographic Change in Assam" (2019) 6 Journal of Emerging Technologies and Innovative Research (JETIR) 78.

¹⁹⁶ cf Gohain (n 168).

According to the NCRB, the state of Assam is one of those with a high prevalence of crimes against women, including young girls, and trafficking of women has spread its tentacles over the state. In addition, the state is home to a large number of people who are involved in prostitution. Surprisingly, the state has also been a witness to an increase in the number of rape cases over the course of the past few of years.¹⁹⁷

Another important source of concern is the attempts made by unscrupulous groups to smuggle counterfeit cash notes into Bangladesh. In the past decade, the BSF has also seen a significant rise in the number of instances in which it has seized counterfeit Indian rupee notes.¹⁹⁸

The narrative that illegal immigrants are responsible for the majority of rapes in the state is consistently perpetuated by the local media.¹⁹⁹ The rape of five minor girls and the murder of one of them within a span of two weeks in Assam, all of which are alleged to have been carried out by Muslims of questionable nationality, have laid bare the fact that a majority of the crimes in Assam – ranging from rapes, molestations, murders, dacoities, thefts, abductions, and so on – are being carried out by these illegal Bangladeshi migrants and their descendants.²⁰⁰

In recent years, there has been a rapid rise in the practice of smuggling livestock into Bangladesh. Within the previous two and a half years alone, troops of the boundary Security Force (BSF) have been successful in seizing cattle with a total value of approximately Rs. 50 crore from near the international boundary in the Assam-Meghalaya sector.²⁰¹

There is not a single empirical study that employs statistical analysis to investigate the possibility of a connection existing between the rising number of immigrants from Bangladesh, the expanding population of Assam, and the rising rate of crime.²⁰²

There is a persistent argument that illegal immigration from other countries, particularly Bangladesh, which is taking place, brings more criminals to the state of Assam, which in turn

¹⁹⁷ cf Laskar (n 171).

¹⁹⁸ cf Behera (n 193).

¹⁹⁹ cf Borah (n 195).

²⁰⁰ NCRB. National Crime Records Bureau data (2010) available at <www.ncrb.gov.in>; accessed 18 April 2023.

²⁰¹ Ibid.

²⁰² Jaideep Mazumdar, 'Illegal Bangladeshi Migrants Are Posing A Grave Threat To Assam's Social Milieu'(Swarajya,29 March 2018) <<https://swarajyamag.com/politics/illegal-bangladeshi-migrants-are-posing-a-grave-threat-to-assams-social-milieu>> accessed 18 April 2023.

raises the overall crime rate in the area. This argument has been put out on multiple occasions. This claim has considerable backing from a variety of sources, including scholars, members of the mass media, the general public, and political parties. The local news outlets broadcast a wide variety of disturbing anecdotes and reports on the criminal activities carried out by such migrants on a consistent basis.

4.5 SOCIAL CHANGES IN ASSAM DUE TO ILLEGAL IMMIGRATION

The indigenous population has a social structure that is distinct from the immigrant population in a number of ways, including religious and linguistic traits. The general populace is concerned that the traditional Assamese way of life would be altered once migrants come to control the state.²⁰³

Additionally, it is anticipated that this will have a major impact on the fields of religion and language. The influx of new residents caused native Assamese to struggle with their sense of self-identity. As a result of illegal immigration, their very cultural existence will be in jeopardy, their political strength will be diminished, and their opportunities for professional advancement would be reduced.

Even though the immigrants had finally arrived in Assam, the locals soon realized that the vast majority of them did not consider themselves to be part of the dominant culture. The cultural and way of life influences that Bangladeshi migrants have had on Assamese society have been the primary focus of this interaction. The general populace is concerned that the traditional Assamese way of life would be altered once migrants take control of the state.

It is also anticipated that this will have a major impact on the fields of religion and language. Since Assam has a Hindu majority, there is widespread concern that the state would soon be overrun by Muslims as a result of the flood of illegal immigration. This has also led to unnecessary conflicts between the Hindus and Muslims of Assam, both of whom have made the state of Assam their home for generations.²⁰⁴

²⁰³ Plabita Saikia, 'Study on Rise of Crime rate with Population growth in Assam (India) with special reference to Illegal Migrants' (2019) 4 International Research Journal of Social Sciences 9, 13.

²⁰⁴ cf Gohain (n 168).

The Chiring Chapori Yuva Morcha is a youth organization with its headquarters in Dibrugarh. Earlier in 2005, they spearheaded a campaign against illegal migration in the district, pushing Assamese society to reject Bangladeshis in social functions. The message to avoid using cycle rickshaws driven by Bangladeshi pullers was communicated via leaflets and text messages sent to mobile phones. Also, commodities marketed by Bangladeshis were targeted for a boycott. However, in the face of the rationale of market economics, the movement came to an end; this is because Bangladeshis are, in all actuality, the most cost-effective labour force that is available in Assam. Because of this, the Assamese society frequently employs these migrants for hard labour despite the resentment that they have caused by unlawfully obtaining voting rights.²⁰⁵

C.S. Mullan, a British census commissioner, made some remarks about immigration in his Census Report from 1931. He referred to it as *“the invasion of vast horde of land hungry Bengali immigrants, mostly Muslims, from the districts of East Bengal. By 1921 the first army corps had passed into Assam and practically conquered the districts of Golpara. A population which must amount to over half a million has transplanted itself from Bengal to Assam valley during the last twenty five years. It is sad but by no means improbable that in another thirty years Sibsagar district will be the only part of Assam in which an Assamese will find himself at home”*.

The lack of interest shown by the Assam administration in the consolidation of Sylhet with Assam was the first sign that the Assamese held a negative view of Bengalis. As part of its strategy to foster antipathy towards Bengalis, the administration of Assam issued an order on September 26, 1947, mandating that Assamese be taught as a mandatory second language in all schools in the state in which it could not serve as the primary medium of instruction. Following the passage of this order, the Bengali language suffered its first loss when, within three years, only three of the original 250 Bengali medium primary schools in the Dhubri sub-division of the Goalpara district were still in operation. This was the first of many losses for the Bengali language.²⁰⁶ As a result, the Assamese regard their use of language as a more powerful weapon to combat what they refer to as “Bengali cultural imperialism.”

A circular was published by the Revenue Department on May 4, 1948 based on the idea that *“Accept Assamese as mother tongue and we will give you land.”* This circular was released as a

²⁰⁵ cf Borah (n 195).

²⁰⁶ cf Gohain (n 168).

complement to the order that was issued to bring about linguistic homogeneity. The vast majority of Muslim migrants who had moved to Assam since the days of Saadulla declared Assamese as their mother-tongue in the census of 1951 to preserve their lands in their occupation.²⁰⁷

As a result, Bengali Hindus remained isolated among the inflated Assamese-speaking population. An identity crisis was brought on among the native Assamese people as a result of the inflow of immigrants. This kind of illegal immigration will put their cultural existence in peril, their political power in jeopardy, and their career chances in jeopardy, all of which will hinder their ability to find work.²⁰⁸

Even though most of the immigrants had established themselves in Assam, the locals of the region discovered that they did not identify with the dominant culture.

The recent violence that has broken out between Bodos and Muslims in the BTAD can be traced back to the problem of illegal immigration. In the past, major problems have arisen in tribal belts like Bodoland as a direct result of the illegal movement of Muslim immigrants.

The most recent Bodo-Muslim violence in the BTAD can be traced back to the root cause of illegal immigration. Ethnic tensions between the state's indigenous inhabitants and Bengali migrants have been heightened as a result of high levels of immigration to the state. Bodo separatists launched violent attacks against Muslim migrants in Kokrajhar.²⁰⁹

In 1993, a raid on the improvised camp of Bansbari, where Muslims who had been displaced lived, resulted in the deaths of more than one hundred refugees. A different point of view on this occurrence is that the current communal strife between Muslims and Bodos in Bodoland Territorial Areas District is nothing more than a conflict of interest between the indigenous tribal people and the immigrant Muslim population over land. This is one of the interpretations that have been put forward.²¹⁰

²⁰⁷ V. I. K. Sarin, *India's North-east in Flames* (Vikas, 1980).

²⁰⁸ Rodali Mohan, 'Economic And Political Impacts Of Illegal Migration On Assam' (2020) 19(4) *Ilkogretim Online - Elementary Education Online* 7254, 7256.

²⁰⁹ Antara Datta, 'Bordering Assam through Affective Closure: 1971 and the Road to the Citizenship Amendment Act of 2019' (2022) 53(2) *Asian Affairs* 298,304.

²¹⁰ cf Sarin (207).

Even though this perception of the indigenous people had no legal foundation as the domain right remained with the state government, the indigenous tribal community must have thought that by tradition they held the right over the land for the community's shared usage. This must have been the case despite the fact that the state government retained ownership of the domain right. They not only felt a sense of dispossession when the land were inhabited by a socio-culturally distinct migrant community, but also the incursion on an area that had previously been huge open land interfered with their daily movements and the grazing of their cattle, which made them feel even more dispossessed.

However, in 2014, after a few minor events, a serious violence and rioting occurred in the area, leading death to relocation of people, both Muslims and Bodos. The situation had been tense for a long time and had been building up for quite some time. Many people are still living in makeshift camps, which are protected by stringent security measures.²¹¹

In addition to this, migration and immigration from Bangladesh have also had an effect on the pattern of language use in the state of Assam. The language data from the 2011 census revealed that the percentage of people in Assam who spoke Assamese, Bodo, Santhali, and Rabha all experienced a significant drop during that year.²¹² According to the data on spoken languages, the number of persons who can communicate in Assamese fell throughout the decade that lasted from 2001 to 2011.²¹³

On the other hand, there was a rise in the number of persons who could speak Bengali. In the year 2001, the percentage of persons who spoke Assamese was 48.80, however by the year 2011, that number had dropped to 48.38. The number of persons who spoke Bengali was once again 27.54 in the year 2001, and it climbed to 29.91 in the year 2011. Because of this, it is important to point out that the percentage of people in Assam who spoke Assamese in 1971 was 60.89 percent, but that number has since dropped to only 48.38 percent.²¹⁴

²¹¹ Pannalal Dhar, *Ethnic Unrest in India and Her Neighbours: Also Includes Europe, West Asia, the Balkans and Africa* (Deep and Deep Publications, 1998).

²¹² J. Das and D. Talukdar, 'Socio-Economic and Political Consequence of Illegal Migration into Assam from Bangladesh' (2016) 5 *Journal of Tourism and Hospitality*.

²¹³ cf Mohan (n 208).

²¹⁴ cf Dhar (n 211).

The presence of illegal immigrants in the realm of economic activity at the micro level has directly led to a crisis of identity among the younger generation of members of indigenous communities. This problem is a direct outcome of the incursion of illegal immigrants into the sphere of economic activity at the micro level. The younger generation in Assamese society has been affected the most negatively by the change in the work culture brought on by such a massive influx of newcomers.²¹⁵ The same thing is taking place in Assam as it did in the southern states of the United States of America in the wake of the pervasive existence of the slave trade during the middle of the nineteenth century. The same thing is taking place in Assam as a result of the easy availability of services of Bangladeshi infiltrators in abundance and at prices that are relatively cheaper than those in Bangladesh. As a consequence of this, young people in Assam are developing an aversion to physically demanding work, which has the knock-on effect of giving Bangladeshis an advantage in the sectors of economic activity that require the performance of menial tasks.²¹⁶

It goes without saying that nature despises a Hoover, and the void that has been created as a result of the dreadful work culture that has been emerging among the young people of Assam over the years is being filled up by Bangladeshis in the shortest possible manner.

It is difficult to identify and remove illegal migrants from Assam soil because they speak a language that is close to Bengali, which is the language spoken by the indigenous Bengali-speaking population of Assam. Illegal migrants from Bangladesh also speak Bengali. According to the findings of the commission on integration and cohesion, tensions typically arise when large levels of migration mix with other kinds of social exclusion such as poverty, inadequate housing, etc.²¹⁷

4.6 IMPACT ON SECURITY OF INDIA DUE TO ILLEGAL IMMIGRATION

The majority of Bangladeshi immigrants have found a way to illegally get their names on the state's voting list, and as a result, they are attempting to pass themselves off as citizens of the

²¹⁵ Udayon Misra, *Periphery Strikes Back* (Indian Institute of Advanced Study, 2000).

²¹⁶ cf Laskar (n 171).

²¹⁷ It was the aggressive linguistic nationalism of the Assamese as reported in the census of 1951 that converted the majority Bengali community into a minority.

state. The community of immigrants in Assam serves as a vote bank for the various political parties in the state.²¹⁸

The present initiative, which goes by the name NRC (National Register of Citizens), seeks to identify Bangladeshi nationals who are living in the country without proper documentation. The ISI of Pakistan has been active in Bangladesh, providing assistance to terrorist movements in Assam, according to a report that was compiled in 1998 by Lieutenant General S. K. Sinha.

It is speculated that within the population of illegal immigrants there are also militants who enter Assam with the intention of engaging in terrorist actions there. The presence of such a huge number of non-Indians on Indian territory poses a direct danger to the nation's national security as well as its sovereignty. This constitutes an act of hostility, and in accordance with Article 355 of the Indian Constitution, the state is obligated to defend the nation against any and all acts of aggression of this kind.²¹⁹

The very same thing has been passionately contended in the case of *Sarbananda Sonowal*²²⁰, and for the first time ever, the Supreme Court of India has concurred with those arguments. The preceding statement made by the highest court in the land needs no additional explanation regarding the imminent security threat that the land is going to confront as a result of the facts that have been presented.²²¹

When properly described and examined, aggression does not necessarily require the use of physical force as its foundation. The presence, whether peaceful or not, of a large number of illegal immigrants along the border areas has resulted in the formation of isolated enclaves that are predominantly inhabited by Bangladeshis. These enclaves are perilously close to the international boundary, and as a result, they have become a refuge for the proliferation of illegal, criminal, and anti-national forces.²²²

An administrative structure that is sloppy, corrupt, and apathetic, as well as one that is persistently underdeveloped and lacking in economic prospects, are also key contributors to the

²¹⁸ cf Baruah (n 62) 1206.

²¹⁹ cf Gohain (n 168).

²²⁰ *Sarbanada Sonowal v. Union of India & Anr*, A.I.R. 2005 5 SCC 665.

²²¹ cf Das and Talukdar (n 212).

²²² cf Gohain (n 168).

situation becoming significantly worse.²²³ Touts and mafias operating in these grey areas seek illegal immigrants to act as their couriers and defend them while doing so. The illegal immigrants gladly comply and connive with the touts and mafias in exchange for easy money or a peaceful stay in India.²²⁴ By utilising networks that are both well-established and highly secure, they are able to successfully smuggle cattle, consumer goods, illegal drugs and narcotics, firearms, and even people across the border.

²²³ cf Borah (n 195).

²²⁴ cf Sharma (n 190).

5. STATE RESPONSE TO ILLEGAL IMMIGRATION IN ASSAM

There are 92 kilometres of river that run along Assam's land border with Bangladesh, making the total length of this land border 262 kilometres. This region became a part of the international border that divides India and Pakistan in 1947, when those two nations emerged as two separate dominions on the Subcontinent. For the first several years of this sector's existence, there were no restrictions placed on the unfettered movement of people across international borders.²²⁵ When they were compelled to leave their homes in East Pakistan, refugees of Bengali Hindu descent who were living there, surged across the border into India in quest of protection.²²⁶

At the same time, Bengali Muslims continued to enter Bangladesh from India with the purpose of pursuing economic opportunities there.²²⁷ Around the same time, there was also a movement of Muslims from Assam into East Pakistan. These people migrated there for religious reasons. Approximately at the same time, this movement was taking place.²²⁸ The deluge of refugees that crossed the border from India into Pakistan and vice versa was a flood that only lasted a few months in the West of the country, but the situation in the East of the country was quite different. In the western region, a significant number of refugees made it across the border. Hindus from what was then known as East Pakistan but is now called Bangladesh have been known to cross into Bangladesh for a large number of years, and this practice is still ongoing today.²²⁹

The number of Muslims migrating from Assam to East Pakistan was noticeably lower when compared to the overall total. The traditional movement of Bengali Muslims into Assam continued without interruption throughout the years. As a direct result of the large-scale

²²⁵ cf Choudhary (n 1) 43.

²²⁶ cf Basumatary (n 11).

²²⁷ cf Biswas (n 38) 182.

²²⁸ cf Choudhary (n 1) 43.

²²⁹ Ibid.

movement of Bengali population into Assam, which included both Hindus and Muslims, there were incidents of anti-Bengali riots. These riots targeted Bengalis. Because of this, the people of Assam felt an incredible amount of resentment towards the Bengali population.

In the beginning, this border was policed by the State Police; however, due to the fact that they lacked sufficient resources, they were unable to prevent anyone from crossing the border. In later years, the state and its apparatus reacted to this predicament by taking more stringent steps to combat it.

Up to this point, almost 12 lakh Bangladeshi nationals have entered India legitimately with visas, but after arriving they have disappeared without a trace.²³⁰ This demonstrates that law enforcement officials are unable to carry out their duties, which include locating Bangladeshi nationals who are illegally present in the country and deporting them.²³¹

According to an article written by Vani Kant Borooah, the Assam Accord, in addition to formally stating that the state had a “immigration problem,” generated more questions than it answered, including the following: What was the scale of the problem? Were there any estimates available regarding the total number of migrants now residing in the state? How were these migrants separated according to their ethnicity? How many of them were doing something that was “illegal”? According to him, the data that is currently available regarding the surge of migrants might be very deceiving.²³²

According to Chandan Kumar Sharma, the antagonism that the people of the tribal communities have shown towards the migrants is a direct result of the state government’s unsuccessful efforts to improve the tribal population. In order to analyse how the state of Assam’s government feels about its indigenous population, Kumar examines the relationship between the state’s policy regarding tribal territory and the various ethnic uprisings that have been staged by Assamese tribals over the course of history. Kumar contends that many state governments in independent

²³⁰cf Saikia (n 103).

²³¹Prarthana Saikia, ‘Citizenship, Nationality and Assam: A political History since 1947’ (DPhil thesis, Indian Institute of Technology 2021).

²³² Vani Kant Borooah, ‘The Killing Fields of Assam: Myth and Reality of Its Muslim Immigration’ (2013) 48(4) Economic and Political Weekly 43,46.

India have illegally taken land from indigenous people in the name of economic development. He cites several examples to support his claim.²³³

5.1 THE ROLE OF ASSAM MOVEMENT

In the 1980s, a significant popular movement demanding the expulsion of foreigners emerged. At the helm of this campaign was the All Assam Students Union (AASU), which also guided its direction. The movement asserted the existence of a unique Assamese identity and, consequently, differentiated citizenship on the basis of this identity. The concept of distinction was initially debated in relation to the linguistic and cultural aspects of the Assamese population in the earlier part of the movement. Later, when the United Liberation Front of Asom (ULFA) took command of the fighting, the concept of difference was described in terms of discrimination and unequal development.

Within the framework of its own connection with the state of India, the Assam movement had the goal of achieving the objective of safeguarding the Assamese people as its primary focus. These disagreements manifested themselves in the expression of citizenship at the central and state levels, as well as inside the state itself, between diverse groups, such as the “ethnic” Assamese and the Bodos, the “ethnic” Assamese and the Bengalis, the “ethnic” Assamese and the tribals, etc. Both the pact that was established between the people involved in the Assam Agitation and the Central government in the year 1985 and the revision to the Citizenship Act that was passed as a result of the accord in 1986 led to the creation of a model of graded citizenship in the state of Assam.²³⁴ This model was formed as a result of both of these events. In addition, the deadline for getting citizenship in the state was moved up to 25 March 1971 from 19 July 1948, a deadline placed by the constitution for almost the entire country. This change was made in order to accommodate those who were born outside of the United States. The last deadline, which had been the 19th of July in 1948, had just passed.

The Assam Accord, accepted on August 15, 1985, included an assurance by the Government at the Centre that it would protect “constitutional, legislative, and administrative safeguards... to protect, preserve - and promote the cultural, social, and linguistic identity and heritage of the

²³³ cf Datta (n 209).

²³⁴ Sanjib Goswami, ‘Identity and Violence In India’s North East Towards a New Paradigm’ (DPhil thesis, Swinburne University of Technology 2016).

Assamese people” as well as the “all round economic development of Assam.” This promise was included in the document.²³⁵

Regarding the problem of people who are considered to be “foreigners” living in the state of Assam, the pact devised a grading or differentiation system. This system categorises individuals according to the year in which they first set foot in the state of Assam. Citizenship was awarded to everyone who had entered Assam from a region that was formerly a part of East Pakistan prior to the first of January, 1966. The primary contributor to this result was the action that was just described. Those individuals who had come to the state between the 1st of January 1966 and the 24th of March 1971 were going to be sanctioned in stages, which meant that they were going to be disqualified as voters for a time frame of 10 years beginning from the day that they were recognized. On the other hand, those individuals who had come to the state after the 24th of March 1971 would be deported as immigrants because they had entered the state after the 24th of March 1971.²³⁶

5.1.1 Sixth Category of Citizenship

The conflicts over citizenship in Assam have a long and volatile postcolonial history, which is mirrored in the way that the citizenship law in the country has countered to the conflicts over citizenship in the state. The history of the problem of citizenship in Assam dates back to the time when it was still a colony of the British Empire. This response is a direct result of the fact that Assam was formerly a colony of the British Empire. The Citizenship Act of 1955 was changed in 1986 to add a provision that would make an exception to the statute in view of the unusual conditions that were present in the state of Assam at the time. This was done in light of the fact that the exceptional circumstances had been in Assam since 1955. The Assam Accord, which was signed in 1985, prepared the way for the ratification of the amendment in 1986, which addressed the identification and expulsion of illegal migrants and foreign nationals who had entered India through Bangladesh. This amendment was ratified by the Indian Parliament. During the course of the fight for Bangladesh’s independence in 1971, several lakhs of refugees of Hinduism and Islam fled to the neighbouring state of Assam.²³⁷

²³⁵ cf Basumatary (n 11).

²³⁶ Vaishali Krishna, ‘Questions of identity in Assam: location, migration and hybridity’ (2013) 14 Asian Ethnicity 557, 558.

²³⁷ cf Roy (n 6).

Although there is a long history of people fleeing persecution in Bangladesh and making their way to Assam, the year 1971 saw the greatest influx of refugees into the state. Citizenship in India can be obtained through a variety of channels, including but not limited to “birth, descent, registration, naturalisation, and the incorporation of foreign territory into India”. The Indian Parliament added Section 6A to the Citizenship Act of 1955 in November of 1986 as part of a revision of the act. This resulted in the establishment of a sixth classification of citizenship in India. This brand-new classification of citizenship was only going to be available in Assam. The modified statute stipulated that all individuals of Indian ancestry who arrived in Assam prior to the first of January 1966 from a defined territory (that is, territories that are now a part of Bangladesh) and who had been ordinarily residing in Assam would be deemed citizens of India as of that day, unless they made a conscious decision not to be.²³⁸

People of Indian origin belonging from the provided areas who arrived in India between 1 January 1966 and 25 March 1971, who have been living in the state after that and who were identified as a “foreigner” in relation to the “law of the Foreigners Act, 1946 and Foreigners (Tribunals) Orders, 1964”, upon registration can be seen as Indian citizens, from the date of the completion of a time frame of 10 years from the date of being identified as an illegal immigrant. They will be allowed to take advantage of all services, including the opportunity to obtain Indian passports, but they will not be able to vote during this period of transition. All other people who came to the state on or after March 25, 1971, are subject to deportation upon confirmation of their status as illegal migrants if it is determined that they are illegal immigrants in line with the Illegal Migrants (Determination by Tribunal) Act, 1983. This is the case regardless of when they entered the state.²³⁹

In recent years, the conflict between illegal immigration and citizenship has been put to the centre once more as a consequence of the judgements handed down by the Apex Court in response to two distinct sets of public interest litigations (PIL) that questioned the constitutionality of “Section 6A of the Citizenship Act”. One of these cases was brought before the Apex Court by the Assam Sanmilita Mahasangha, the Assam Public Works, and the All Assam Ahom Association (in the case of *Assam Sanmilita Mahasangha and Others v. Union of*

²³⁸ Ibid.

²³⁹ cf Borooah (n 232).

India and Another,²⁴⁰). Another of these cases was pursued by the All Assam Ahom Association. This particular issue centred on the clause in Section 6A that granted citizenship to illegal immigrants who entered the state in the period between 1966 and 1971. The relevant time period for this provision was from January 1, 1966 to March 24, 1971.²⁴¹

The second PIL petition, which was submitted in 2012 by the non-government organisations Swajan and Bimalangshu Roy Foundation and was under consideration, focused on that portion of Section 6A that understood all immigrants from Bangladesh who arrived in the state after 24 March 1971 to have got into the state unlawfully and subjected them to deportation by the state. The petition was handed in for consideration in the year 2012 by the non-governmental organisation Swajan and Bimalangshu Roy Foundation. Concerns were raised in the Public Interest Litigation (PIL) that was submitted by Assam Sanmilita Mahasangha and other organisations. This litigation was intended to voice concerns regarding the weakening of the legal frameworks governing citizenship. According to the individuals who brought up the lawsuit, this led to the promotion of discriminatory immigration practises and placed the safety of the state and its citizens at jeopardy. Displeasure was expressed with the fact that all immigrants who arrived in the country after 24 March 1971 were lumped together and labelled as illegal in the second paragraph of the article. Specifically, the author lamented the fact that they were bundled together. It pleaded for a distinction to be made between displaced persons and illegal migrants, with the former group consisting mostly of Hindus and other minority groups fleeing persecution and the latter being granted the legal status of citizens.²⁴²

The petition that was forwarded by Assam Sanmilita Mahasangha to challenge the Constitutionality of Sections 6 A of the Citizenship Act was accepted by the Supreme Court on the grounds that it represents the requirements of a whole population - the tribal and non-tribal population of Assam - and, as a result, it deserved to be accepted. The petition that was filed “challenged the validity of Sections 6 A of the Citizenship Act”. The constitutionality of Section 6A of the Citizenship Act was called into question. The judges made the comment that these interests were connected to the preservation of Assamese identity, but that they also had large

²⁴⁰ *Assam Sanmilita Mahasangha and Others v. Union of India and Another*, (2015) 3 SCC 1.

²⁴¹ cf Roy (n 6) 49.

²⁴² Ibid.

consequences for the autonomy and integration of the country as a whole. They said this in their observation.²⁴³

A constitutional bench will need to make a decision regarding the constitutionality and legality of Section 6A, specifically its compliance with the nationality requirements in the Constitution in that it prescribed for the state a prescribed date for citizenship that was in conflict with Article 6 of the Constitution. This decision will need to be made by the constitutional bench. The judges came to the conclusion that the issue regarding the constitutionality of Section 6A should be left to a separate bench that specializes in constitutional law. As a response to the other components of the petition, they retraced the evolution of Section 6A all the way back to the Assam Accord and asserted that the mechanisms of granting citizenship were included as a component of the Assam Accord. In other words, they claimed that the Assam Accord was the only document that contained the legal processes of granting citizenship. The other aspects of the agreement, both of which were of equal importance, involved the protection of Assamese culture and identity as well as the establishment of a barrier at the international boundary to prevent any further incursions.²⁴⁴

The State Government of Assam established a Committee that included Ministers in October 2006 in order to investigate the “implementation of the Assam Accord and the complex problem of determining who exactly constitutes the Assamese people.” This review was to take place in conjunction with the difficult issue of identifying the “Assamese people.” The Assam State Government was supposed to receive a report from the committee no later than December 31, 2006. In order to have fruitful discussions over an appropriate definition, the committee welcomed attendees to its meetings who were representatives from a variety of political parties, literary organizations, and student groups. In July of 2011, the federal government made the decision to study the issue further by creating a cabinet subcommittee specifically for the purpose of doing so.²⁴⁵ The Supreme Court limited its involvement in the matter to the giving of specific orders to the national and state authorities about the strengthening and monitoring of the border on the east. Instead of addressing the question of what constitutes Assamese culture, the court stated that it would leave that up to the Assamese people and the government to consider and

²⁴³ Nitul Gogoi, Dr. T. R. Gogoi, ‘Youth Culture in the Contemporary Society: A Study on 1979-90, Crisis of Assamese Culture and Identity’ (2019) 8(3) International Journal of Humanities and Social Science Invention, 5.

²⁴⁴ cf Krishna (n 236).

²⁴⁵ cf Gogoi, Gogoi (n 243).

decide. It was also determined to prepare a road plan for the completion of this task in order to keep track of the progress made by the administration in this particular direction. The Court, on the other hand, was equally concerned with safeguarding the area “internally” by hastening the process of separating citizens from non-citizens in order to better identify who was who. In order to achieve this goal, it requested that the Gauhati High Court to fasten the mechanism of selecting chairmen of the FTs so that they could begin their work as quickly as possible.²⁴⁶

A specialized bench was supposed to be established by the Chief Justice of the Gauhati High Court so that he could keep an eye on the tribunals and see how far they had progressed. Following conversations with the Government of Bangladesh, the central government was given the directive to smoothen the mechanism of deporting unlawful migrants, and the Court was informed that the results of these discussions should be presented to the central government.²⁴⁷

In addition, the Supreme Court outlined a timetable that must be adhered to in order to bring the National record of Citizens (NRC) in Assam up to date in order for the whole record to be notified by the end of January 2016. The Supreme Court of India, in its administrative instructions, followed its judgment in the case of *Sarbananda Sonowal*²⁴⁸ (2005) when it construed the “influx of illegal migrants into the state of India as external aggression.”

The Court also enlarged the concept of “security” to encompass “internal disturbance.” It requires being sensitive to and minimizing hazards to the Assamese population from the illegal immigrants. This was accomplished by expanding the definition of security. To achieve this, it instructed the focus of the larger bench of the court, which would look into the constitutional concepts triggered by the petitions, to look into whether the word “state” used in Article 355 points only to a territory or involves likewise the people who inhabit the state along with their cultural identities. This action was taken in order to achieve the objective that was stated before. The Court, on its part, re-enforced the duty taken up by the federal government through the Assam Accord to update the 1951 NRC in Assam by prescribing a deadline for the updating of the NRC. This was done in order to demonstrate the Court’s commitment to the task. This was done in order to prevent any more delays in the process.

²⁴⁶ cf Basumatary (n 11).

²⁴⁷cf Roy (n 6) 49.

²⁴⁸ *Sarbananda Sonowal v. Union of India & Anr*, A.I.R. 2005 5 SCC 665.

5.2 THE ILLEGAL MIGRANTS (DETERMINATION BY TRIBUNALS) ACT, 1983

The primary demand of the Assam movement was that all foreigners currently residing in the state be identified and removed. The Bangladeshis were the primary target of it, despite the fact that, according to some estimates, they made up just about 40 percent of the immigrants. The remaining immigrants were either from a Hindi language areas or were of Nepali descent. It started out as a secular movement that was led by all of the Assamese people, but it always had the potential to become communal because of the religious overtones that were attached to it due to the fact that the majority of Bangladeshi immigrants were Muslims.²⁴⁹ The Act was only valid in the state of Assam. The rest of India is governed under the Foreigners' Act of 1946, which places the burden of proof of Indian nationality squarely on the shoulders of the accused.²⁵⁰

As a direct consequence of the Assam movement that occurred between 1979 and 1985, the Illegal Migrants (Determination by Tribunals) Act (IMDT Act) was enacted on December 12, 1983. This was done as a reaction to the fact that the electoral rolls were being amended at the time.²⁵¹ The IMDT Act, which was exclusively applicable to the state of Assam, stated that everyone who had permanently settled in Assam before to March 25, 1971 was a citizen of the state. The Election Commission ordered the Assam administration to recognize seats with a significant increase in the number of voters in the wake of claims that a high number of Muslim illegal immigrants were being put in the lists. However, the state allegedly delayed its feet on the issue, which led to the Election Commission issuing the request. According to some estimates, the population of eligible voters increased by 10.2 percent between the years 1970 and 1971, 10.42 percent between 1971 and 1977, and an additional 10.3 percent during the year that followed.²⁵²

The imposition of the IMDT Act was met with a great deal of hostility in the state of Assam. It was passed into law amidst the chaos of the elections in 1983. During that time period, the leaders of the All Assam Students' Union (AASU), who were in the forefront of the Assam Agitation against illegal Bangladeshi immigrants, cast doubt on the legitimacy of the elections that took place in 1983. They felt that the elections were not legitimate because the problem of illegal

²⁴⁹ Walter Fernandes, 'IMDT Act and Immigration in North-Eastern India' (2005) 40(30) *Economic and Political Weekly* 3237.

²⁵⁰ cf Gohain (n 168).

²⁵¹ cf Baruah (n12).

²⁵² cf Gogoi, Gogoi (n 243).

immigration had not been addressed prior to the voting. After that, the leaders of AASU contested that the ineffectiveness of the IMDT Act was due to the fact that it showed political favoritism towards illegal immigration, and that this favoritism was exhibited non the context of the IMDT Act. Since it was enacted by the government of Hiteshswar Saikia, which was seen to be favoring illegal Bangladeshi immigration for the sake of its own benefits in politics, the IMDT Act was viewed with skepticism by the torchbearers of the Assam Movement. In general, they viewed the law with suspicion.

Importantly, the cutoff date for getting Indian citizenship in the rest of India is July 19, 1948. This date was established in 1948. In addition, the IMDT Act put “the burden of proof” for establishing the citizenship status of the accused person from the accused person to the complaining party.²⁵³ The Foreigner’s Act of 1946, on the other hand, places the “burden of proof” about an individual’s citizenship status squarely on the shoulders of the accused rather than the complainant.²⁵⁴ This was held to be a rational clause in the case of *Union of India v. Ghaus Mohammed*²⁵⁵. This was a fatal clause because the individual who was accused did not have to do anything to verify their citizenship, while the person who filed the complaint had to prove that the other person was in the country illegally. As a result, the IMDT Act was not successful in properly identifying and deporting unlawful migrants.²⁵⁶

This Act was intended to speed up the process of identifying illegal immigrants and deporting those who were found to be in the country without authorization. Ironically, the Act was in favour of illegal immigrants not only because it shifted the burden of proof to the authorities seeking to prove a person to be an illegal immigrant, which is impossible given the covert manner in which illegal immigration takes place, but also because it made various other provisions which made it more difficult to deport illegal immigrants. Despite the very evident change in the linguistic and religious demography of Assam, which is plainly attributable to clandestine

²⁵³ There is no provision in the I.M.D.T. Act analogous to § 9, Foreigners Act Moreover, Rule 4, Illegal Migrants (Determination by Tribunals) Rules, 1984 provides for a list of factors that are to be ascertained by the inquiring authority before action can be taken against an alleged "illegal immigrant."

²⁵⁴ Foreigners Act 1946, s 9.

²⁵⁵ A.I.R. 1961 SC 1526.

²⁵⁶ These include inter alia § 8(1), § 8(2) and § 14, I.M.D.T. Act.

immigration from Bangladesh, the number of deportations carried out in accordance with the IMDT Act was extremely low as a direct result of these lenient provisions.

The IMDT Act included a clause that authorized the establishment of tribunals in several border districts of Assam for the purpose of deciding cases involving unlawful border crossers. However, according to some estimates, there are almost 250,000 cases currently waiting before the 16 different IMDT tribunals. Only 10,015 people were declared to be illegal migrants as a result of the IMDT Act, and out of the total number of people who were determined to be illegal migrants, only 1,481 were physically expelled as of April 30, 2000.²⁵⁷ It was highlighted in this context that despite the fact that investigations were launched in 310,759 instances under the IMDT Act, only 10,015 people were deemed to be illegal migrants. As a point of reference, West Bengal, which also experiences a large influx of illegal Bangladeshi migrants, has, to this day, deported around half a million people in accordance with the Foreigners Act of 1946.

The suspicions have been proven correct by the knowledge gained over the past 22 years. Since January 1983, five courts that were established under this statute in the districts that border Bangladesh have registered 423,021 cases, dealt with 65,000 cases, and have disposed of 23,420 cases. Additionally, these tribunals have deemed 12,424 individuals to be illegal migrants as of January 2005. Just 1,538 of them have been removed from the country.²⁵⁸

On August 15, 1985, the Assam Accord was signed by the leaders of the Assam Agitation and the administration of Rajiv Gandhi, who was presiding over the Centre at the time. In paragraph 5.9 of the agreement, it was stated that “the government will give due considerations to certain difficulties expressed by the AASU/AAGSP regarding the implementation of the Illegal Migrants (Determination by Tribunals) Act, 1983.” This was a provision of the accord. Notably, the agitation leaders, who under the banner of the Asom Gana Parishad (AGP) twice constituted the government, maintained an equivocal stance with regard to the repeal of the IMDT Act. This is significant because the agitation leaders were responsible for forming the administration. In point of fact, they achieved very little to alleviate the challenges posed by the Act, which prohibited a sensible approach to the problem of migration. An examination of the ground realities that have existed up until this point reveals that the IMDT Act is unable to identify and

²⁵⁷ *Sarbananda Sonowal v. Union of India & Anr*, A.I.R. 2005 5 SCC 665

²⁵⁸ cf *Fernandes* (n 249).

deport illegal immigrants in an efficient manner. As a direct consequence of this, polemics within Assamese civil society have led to a rise in the number of calls for the IMDT Act to be repealed.²⁵⁹

The Assam Accord was signed, and with it came the affirmation of a hierarchized form of citizenship. This model was created by the universal “we,” the Assamese people, whose claim to citizenship was indisputable from a legal standpoint. The concept of a universal “we” was imposed on residual citizens, whose status as citizens was ambiguous due to the linguistic identity and religious affiliation of the residual citizens. The government made an effort to settle this ambiguity through the legal system by granting some individuals deferred citizenship and by determining the validity of others through the application of the Foreigners Act.²⁶⁰ The remaining individuals, that is, anybody who entered India on or after March 25, 1971, were seen as illegal aliens by the IMDT Act and were consequently expelled from the country. However, in real execution, because the Foreigners Act and the IMDT Act applied concurrently and stipulated various ways of determining citizenship, and because there was a lasting inflow of immigrants from Bangladesh, the remaining citizens occupied a zone of continually indeterminate citizenship and suspect legality.

5.2.1 Sarbananda Sonowal v. Union of India, 2005

The issue of this infiltration was presented before the Supreme Court in the form of a Public Interest Litigation (P.I.L.). The Supreme Court of India has expressed its distress over this infiltration and has requested a status report on the matter from both the Union of India and the concerned state governments. The court has also expressed its hope that the respective state governments will take meaningful measures to address the problem. Additionally, the right of expulsion of foreigners is only vested in the Central Government, as said in the case of *Hans Muller of Nuremberg v. Superintendent, Presidency Jail, Calcutta*²⁶¹.

After that, a writ petition was also filed by way of public litigation for the purpose of declaring certain parts of the I.M.D.T. Act as ultra vires of the Constitution of India, null and void, and for the resultant declaration that the F Act, 1946 and the Rules issued thereunder shall apply to the

²⁵⁹ cf Gohain (n 168).

²⁶⁰ cf Fernandes (n 249).

²⁶¹ AIR 1955 S.C. 367

state of Assam. This was done in an effort to have the provisions of the I.M.D.T. Act declared null and void. In the case of *Sarbananda Sonowal v. Union of India*²⁶², the Honourable Supreme Court of India overturned the controversial Illegal Migrants (Determination by Tribunals) Act, 1983 (also known as the “I.M.D.T. Act”) on the grounds that it violated Articles 14 and 355 of the Constitution of India. In addition to that, it touched on a few other topics, such as whether or not the Act is compatible with Article 21, and the rights of illegal immigrants.

Following this, on July 12, 2005, a three-judge bench of the Supreme Court consisting of Chief Justice R. C. Lahoti, Justice G. P. Mathur, and Justice P. K. Balasubramanyan issued a ruling that the IMDT Act “created the biggest hurdle and is the main impediment or barrier in identification and deportation of illegal migrants.” It was also brought to everyone’s attention in a very strong way that despite the fact that investigations were started in 310,759 cases in accordance with the IMDT Act, only 10,015 individuals were declared to be illegal migrants, and that out of this reported number, only 1,481 people had been physically expelled as of April 30, 2000.²⁶³

In judgment ruled that the IMDT Act was unconstitutional. This ruling was in response to a petition that had been filed by Sarbananda Sonowal, who had previously served as president of the Aasu, as well as an MP and an MLA from the Asom Gana Parishad (AGP). Sonowal later went on to become the Chief Minister of Assam. It asserted that the Act violated Article 355 of the Constitution, which was the basis for the objection. According to Article 355 of the Constitution of India, the Union of India is charged with the responsibility of defending each individual state from “external aggression and internal disturbances.” The Supreme Court also stated that the presence of a large number of illegal migrants had a significant detrimental effect on the Northeast, and it ordered the establishment of new courts in accordance with the Foreigners Act of 1946 and the Foreigners (Tribunal Order) of 1964. However, it is questionable whether or not these legal systems will actually be useful in resolving the situation.²⁶⁴

In 2005, the Supreme Court decided to do away with the IMDT Act, which resulted in the elimination of an exception that was widely regarded by people in Assam to be unusual and

²⁶² *Sarbananda Sonowal v. Union of India & Anr* A.I.R., 2005 5 SCC 665.

²⁶³ *Sarbananda Sonowal v. Union of India & Anr.*, A.I.R. 2005 5 SCC 665.

²⁶⁴ cf *Borooah* (n 232).

unfair. Although the precise concerns of legal procedure that led to the act being ruled unconstitutional were the basis for the decision, the broader principles that were established during the mechanism had implications for the manner in which citizenship was understood and construed.²⁶⁵ The movement from Bangladesh to Assam by the immigrants was considered by the court to be not only an illegal arrival but also as assault. The Supreme Court argued within the framework of the concept of bounded citizenship when it noted that one of the primary functions of state sovereignty was the buttressing of national territorial limits and the safeguarding of its population from infiltrators who represented a threat to the safety of the nation.

After that, a group of ministers known as the Group of Ministers (GoM) was assembled to investigate the judgement handed down by the Supreme Court and provide a strategy for moving forward. On February 10, 2006, the Cabinet Committee on Political Affairs, which Prime Minister Manmohan Singh chairs, came to the conclusion that tribunals should be established in Assam under the Foreigners Act, 1946, in order to determine the legal status of illegal migrants.

The Supreme Court heard arguments on a Public Interest Litigation (P.I.L.) about infiltration from Bangladesh.²⁶⁶ The Supreme Court has shown its worry over this intrusion and has ordered the Union of India and the affected states to provide a status report on the matter. It has also voiced its expectation that the respective governments will take meaningful measures to address the problem.

After *Sarbanada Sonowal* case, the directions were not implemented for a very long time. Therefore, the Union government had to again be directed to implement it in *Sarbanada Sonowal v. Union of India*²⁶⁷.

5.2.2 Aftermath of IMDT

It is absolutely essential for India's national security to put a stop to the flow of illegal immigrants from Bangladesh into Assam. The total length of the state's shared border with Bangladesh is 262 kilometres, of which 92 kilometres are riverine. The Border Security Force (BSF) has had a tough time controlling the flow of illegal migrants into India from Bangladesh due to the

²⁶⁵ cf Gohain (n 168).

²⁶⁶ *All India Lawyer's Forum for Civil Liberties v. Union of India*, (1999) 5 S.C.C. 714.

²⁶⁷ 2007 1 SCC 174.

logistical challenges involved in constructing a border fence that is completely impenetrable.²⁶⁸ It is estimated that over 6 million people are living in Assam illegally. The continuation of the immigration surge would not only destabilise the socio-cultural and political norms of Assam, but it would also make it possible for outside players such as Pakistan and China to exert influence over the events that take place in the Northeast.²⁶⁹

The elimination of the IMDT Act and the introduction of the Foreigners Act of 1946 ought to result in an improvement in the management of the illegal migration problem. According to figures provided by the government, the provisions of the Foreigner's Act, 1946 led to the expulsion of more than 300,000 illegal migrants from the state of Assam between the years 1962 and 1984 (174,349 between the years 1962 and 1966, 69,174 between the years 1967 and 1973, and 58,148 between the years 1974 and 1983). However, following the passage of the IMDT Act in 1983 and its subsequent execution, the number of people who were deported dropped significantly, with only 1,501 people being sent away in the 18 years that followed. Therefore, re-engaging with the issue of illegal migration in accordance with the requirements of the Foreigner's Act of 1946 ought to result in improved administration of the situation.²⁷⁰

After the Royal Bhutan Army destroyed ULFA training sites in Bhutan in 2004, the organization's headquarters were relocated to Bangladesh. The ULFA has relocated its headquarters to Pakistan, where it has developed close links with the Inter Service Intelligence (ISI). As a matter of fact, as a result of the bases that Bangladesh has supplied for them, the ULFA has abandoned its previous stance against illegal migrants of Bangladeshi origin. In light of this, the judgement made by the Supreme Court is an appropriate move towards strengthening the internal legal mechanisms that are in place to deal with politically contentious issues in Assam.²⁷¹

Among the executive actions that were undertaken, the establishment of a Special Border Organisation under the PIP Scheme by the Assam Police in 1962 was one of them. At the moment, the Assam Police Border Organisation (APBO) consists of strength of four thousand

²⁶⁸ cf Goswami (n 53).

²⁶⁹ Sanjoy Barbor, 'Ethnic politics and land use: Genesis of conflicts in India's northeast' (2002) 37 *Economic and Political Weekly* 1285, 1287.

²⁷⁰ cf Krishna (n 236).

²⁷¹ cf Gohain (n 168) 19.

individuals. The APBO will perform surveys in areas that are believed to be vulnerable to infiltration, will “identify” the individuals who are believed to be foreign nationals, will register cases known as “Reference Cases,” and will transmit these cases to the Foreigners’ Tribunals.²⁷² The Election Commission (EC) also “identified” several hundred thousand persons as “doubtful voters” in 1997 and refused them the right to vote. Many people who voted Doubtful are sent to detention facilities, which are often referred to as “concentration camps.” Most people who are on the fence about voting are members of economically disadvantaged communities, including as Muslims, Bengali Hindus, Koch Rajbangshis, Nepalis, and others.

Samudra Gupta Kashyap has elaborated that the numbers of immigrants are still debatable, with the Congress and the All India United Democratic Front (AIUDF) believing that there is not as much “infiltration” as the AASU claims there is. However, since 1985, Foreigners Tribunals in Assam have shown that 38,000 people are illegal migrants, the majority of these individuals have either evaded capture or are being held in detention facilities. Over a hundred thousand cases are currently being investigated by the Foreigners Tribunal. There are around one and a half million individuals whose citizenship status is indicated on the electoral rolls of Assam by the letter “D,” which stands for “doubtful.” It is interesting to note that voters who choose option “D” are allowed to submit requests to have their names included in the NRC; nevertheless, the final decision on their registration will be made based on the findings of the Foreigners’ Tribunals.²⁷³

The 19th of July, 1948 is the cutoff date for citizenship according to the Constitution, which is written for the rest of the country. This information has been presented previously. However, as a consequence of an amendment that was made to the Citizenship Act in 1986, the state of Assam was made an exemption to the constitutional deadline. The date of March 24, 1971 became the new cut-off date that was only applied to the state of Assam. This new cut-off date was only applicable to the state of Assam.²⁷⁴

Key leaders, including the leader of the Bharatiya Janata Party (BJP), Amit Shah, appeared at rallies in Assam in 2014, promising citizenship to Hindus who had fled to India from Bangladesh to escape religious persecution. Assam, in India, was the setting for these addresses. As a result

²⁷² cf Barbora (n 269).

²⁷³ cf Roy (n 6) 48.

²⁷⁴ Ibid.

of persecution in Bangladesh, some Hindus escaped to India. The government has promised to issue 10- to 15-year long-term visas in areas where citizenship applications have been pending for an extended period of time, establish a task force to expedite refugee requests for citizenship, and pass a law to aid Hindu refugees who have fled persecution in Pakistan and Bangladesh. While this has been going on, Shah has been campaigning in Assam on the promise that the BJP will eliminate "infiltrators." He was quoting Prime Minister Narendra Modi's campaign rhetoric from the 2014 Lok Sabha election and rephrasing it. The BJP's stance on immigration reform was a cornerstone of the party's programme in the 2016 Assam assembly elections.

NRC project manager Ajupi Baruah described the approach to creating a frenzy that could be channeled into building confidence, easing fears, and securing buy-in. Songs and dances performed by Bihu people were used in hoardings advertising the NRC and in visual promotions that were shown in movie theatres and on television networks.²⁷⁵ The advertising videos were designed to pique interest, which would perhaps lead to expectation, and finally, acceptance; this would pave the way for widespread participation in a massive and complicated undertaking. The ads did this by using cultural clichés that are known to viewers. Indeed, the NRC song, which was performed by the well-known Assamese musician Zubeen Garg (Jibon Borthakur), incorporated aesthetically beautiful representations of plurality and cultural variety, and it made the following pledges: "We are all citizens of this great nation, and the NRC is a reflection of each and every one of us. We are holding hands with one another. Our hearts have been given courage by NRC. Our individuality, our safety, our rights, our unity, our growth, and our progression all together."

The culturally diverse Assamese culture was the focal point of the NRC song because of the promise of citizenship as a single national political identity.²⁷⁶ This created a powerful combination that made the anthem particularly effective.

5.3 NATIONAL REGISTER OF CITIZENS (NRC)

The process of adding names to the National Register of Citizens (NRC) is one of the most major citizen identification processes that has been implemented to date with the intention of identifying those who are not citizens. Since it began in 2015, the procedure has been extremely

²⁷⁵ cf Roy (n 6) 48.

²⁷⁶ Ibid.

taxing on the national exchequer and has already increased the likelihood of statelessness for millions of people. Nearly 33 million people in Assam were forced by the NRC process to get their legacy document, which was a digitized version of an old electoral roll document from before 1971. They also had to fill out an application, submit “acceptable” current documents to prove they were related to a “legacy person,” make a “family tree” that couldn’t be challenged, and attend several rounds of verifications on short notice, including hearings to get rid of “frivolous” “objections.”²⁷⁷ As a result of this practise, an already economically disadvantaged community in the state of Assam became even more so. The NRC process places more of an emphasis on a person’s contributions to their field rather than the person themselves.²⁷⁸

The Supreme Court of India, which is the highest judicial body in India, has for the first time considerably watered down the idea of “separation of power,” which is an essential component of the Constitution. It did this by adopting the direct supervisory role in identifying non-citizens through the National Register of Citizens (NRC) Authority.²⁷⁹ Prior to the NRC process, the role of the court was one of authoritarianism. The judgement handed down by the Judiciary also led to the establishment of detention centres, which serve as transit facilities for declared or suspected foreigners. In 2008, the Gauhati High Court issued an order mandating the construction of these amenities. In the years 2010, 2012, 2014, and 2018, Assam saw the opening of new detention centres. The use of these facilities in practise led to the victims being harassed financially, having their justice delayed, and being held captive for longer than necessary.

In 2018, the sufferings of the people who were being held in the detention camp were not brought to the attention of the judicial system until a social activist filed a lawsuit in the public interest.²⁸⁰ Consequently, inmates who have been held in the detention centres for more than three years can become eligible for bail if they are willing to give up their biometric data and provide a security deposit of one lakh rupees together with the guarantee of two Indian nationals. According to

²⁷⁷ cf Gohain (n 51).

²⁷⁸ cf Roy (n 6) 49.

²⁷⁹ V. Venkatesan, ‘The NRC case: The Supreme Court’s role’ (*The Hindu*, 25 September 2019) <<https://frontline.thehindu.com/cover-story/article29498707.ece>> assessed 12 June 2023.

²⁸⁰ Harsh Mander, ‘The dark side of humanity and legality: A glimpse inside Assam’s detention centres for ‘foreigners’ (*Scroll* , 26 June 2018) < <https://scroll.in/article/883936/assam-citizens-register-detention-centres-for-foreigners-offer-a-glimpse-of-the-looming-tragedy> > assessed 12 April 2023.

reports, only 65 detainees have been released so far as a result of this process, and another thousand of them are apparently waiting in 16 different detention centres.²⁸¹

The NRC process has not been accepted by the people of Assam since many family members of illegal immigrants have been included in it. For example, in the case of *Lal Bhanu vs Union of India and ors*²⁸², the Supreme Court stayed the deportation of a woman who was declared as foreigner because the NRC has included the names of her family members in the final list.

5.4 CITIZENSHIP (AMENDMENT) ACT, 2019

The Citizenship (Amendment) Act, 2019 reopens the emotional schism in Assam between those who consider themselves locals and those who are deemed outsiders by the former group by removing the date of March 25, 1971 from citizenship legislation. The lifting of this legal barrier can be seen as a cause of both the hostility to the CAA in Assam and the increasing communal violence against Muslims in the state. This is so because the reversal of this judicial closure has brought these two problems into sharp focus. When the NRC in Assam produces a longer list of Bengali Hindu refugees whom it describes as "illegal migrants," the narrative on which the CAA is based—one that distinguishes between the worthy "refugee" (often Hindu) and the "infiltrator" (typically Muslim)—falls apart. To address these issues, the Indian government has proposed the Citizenship Amendment Bill (2016). If enacted, this bill would prevent illegal Muslim immigrants from gaining citizenship in the same way that Hindu immigrants could. Both the NRC and the CAA came under fire in Assam for failing to do enough to solve the Assamese conundrum and instead serving to obscure the boundaries that 1971 had set up between the various Assamese dialects.²⁸³

The issue of detecting and deporting foreign nationals became moot after the Citizenship Amendment Act (CAA) was passed in 2019, rendering obsolete all of the previously established protocols for addressing the problem of illegal immigration. The illegal immigration of four religious groups has been decriminalised, exonerated, and a new chapter of jurisprudence has begun as a result of this decision. This decision has the potential to effect South Asia as a whole. Under the CAA, members of four different religious communities who had entered the country

²⁸¹ cf Roy (n 6) 49.

²⁸² 2021 SCC OnLine Gau 1617.

²⁸³ cf Goswami (n 53).

illegally became eligible for Indian citizenship.²⁸⁴ The Supreme Court is currently considering around 59 petitions that question the constitutional legality of the law.

In order to solve the problem of illegal immigration that originates in Bangladesh, immediate action needs to be made to put a stop to any new infiltration and mitigate the negative impacts that are caused by the presence of a significant number of migrants in our nation.²⁸⁵ As a result of Assam's rapid population increase, the state is no longer in a position to take in any more new residents, despite the fact that it is one of the fastest growing states in the country.

5.5 EVICTION DRIVES BY THE GOVERNMENT OF ASSAM

Multiple eviction drives has taken place in the state of Assam stating the need to clear the land of the people, by removing illegal encroachers. The action taken by the authorities is seen on paper and the sites of such eviction drives. However, they fail to uphold such a strong attitude for a consistent period of time. Since the beginning of this debate, it has been seen that the behaviour of the Government is contrary to what is said by them and what is expected out of them.²⁸⁶ Multiple examples prove that eviction drives are not as viable as they may seem, to solve the problem of encroachment by illegal immigrants.

Gopinath Bardoloi, the first Chief Minister of Assam, and his Ministers made it a priority upon taking office in 1946 to track down the illegal settlers who had been forcibly removed from reserves in the Kamrup district. Later, he had his reliable assistant Bishnuram Medhi do the actual expulsion. Four plots in Mangaldoi, three in Barpeta, and two in Gauhati were cleared of unprotected encroachers by May 31, 1946. Gopinath Bardoloi successfully lobbied for the passage of the Immigrants (Expulsion from Assam) Act in 1950, which could only deport 354 immigrants from the state, in an effort to limit the introduction of unwanted individuals into Assam. Assam has been ruled unsuitable for the settlement of new immigrants, but the government has guaranteed the indigenous population that their land rights would be strictly

²⁸⁴ cf Borooah (n 232).

²⁸⁵ cf Gohain (n 51).

²⁸⁶ Utpal Parashar, '2 killed, several including 9 cops hurt in violence during Assam eviction drive' (*Hindustan Times*, 23 September 2021) <<https://www.hindustantimes.com/india-news/2-killed-several-including-9-cops-hurt-in-violence-during-assam-eviction-drive-101632403197109.html>> accessed 19 April 2023.

upheld. Nonetheless, it's worth noting that in 1949–50, the government made available 5,719 acres of local grazing reserves for the settling of immigrants.²⁸⁷

In 1994, the government of Assam issued eviction notices to the residents of Sipajhar, who were living on 22,905 acres of government-owned property around 50 km northeast of Guwahati. The immigrants from Bangladesh stayed in their settlements. More than thirty-two government schools, three health clinics, and toilets built under the Swachh Bharat Abhiyan appeared in the region over a period of more than two decades.²⁸⁸ Hatimuria, located around 40 km east of Guwahati, had a similar boom, with the construction of more than 300 new homes in the area over the course of only two years. Settlers supposedly had access to solar lights that their indigenous neighbours did not. On May 9, 1994, 'non-Indians' and 'non-citizens' were reportedly told to leave 77,420 bighas (22,905 acres) in Sipajhar, according to official documents. However, as their numbers reached at least 25,000, the government made all accommodations for them. There are still open cases, but the government is moving through with electrifying 1,500 homes via the Indira Awas Yojana programme.²⁸⁹

As part of the Assam government's Garukhuti Project, eviction efforts were carried out to clear 77,420 'bighas' of land of illegal occupants. Two citizens killed and many more injured, including nine police officers, in such a drive.²⁹⁰ Police said that during the eviction drive, a crowd of almost 2,000 individuals attacked the police team, prompting the officers to respond with a baton charge and gunfire, resulting in deaths and injuries.²⁹¹ The government has resolved to negotiate with squatters before launching eviction efforts in each given region to avoid any future incidents of disorder during evictions. For example, thanks to careful discussions, many hectares of encroached land in the Lumding Reserve Forest in the Hojai area were recently cleansed of illegal inhabitants. More than 108 families of illegal squatters were removed from

²⁸⁷ Sanghamitra Sarma, 'Immigration Issue In Assam (1947-1957)' (2014) *Indian Journal of Political Science* 531,532.

²⁸⁸ Rahul Karmakar, 'Schools, toilets: How Assam govt 'legitimises' land-grab by 'illegal migrants'' (*Hindustan Times*, 3July, 2016) <<https://www.hindustantimes.com/india-news/schools-toilets-how-assam-govt-legitimises-land-grab-by-illegal-migrants/story-3CryZEBs5GIPu5vRFiJtGL.html>> accessed 19 April 2023.

²⁸⁹ Ibid.

²⁹⁰ Parashar (n 286).

²⁹¹ Ibid.

the forest during the campaign led by administration, police, and paramilitary troops. About 1,500 individuals were forcibly removed from the area with no significant opposition.²⁹²

There will be an eviction effort in January 2023 to clear 501 hectares of forest from the Pava reserve. All Assam Minority Students Union (AAMSU) Lakhimpur District Secretary said that locals had lived in the region for decades. The Pradhan Mantri Awas Yojana (PMAY) programme saw the construction of homes, the establishment of Anganwadi facilities, the installation of electrical lines, and the paving of roads. The government's stated goal here is undermined.²⁹³ In order to secure their rights to the forest land, the families petitioned the district authorities last year, citing the Scheduled Tribes and Other Traditional Forest Dwellers (Recognition of Forest Rights) Act, 2006. Since these households do not identify with any indigenous group, the management of the forest service raised objections.²⁹⁴ In September, district authorities denied their appeal, clearing the way for them to begin clearing the forest property. More than 25013 people had been living illegally in the forest region of the Bura Chapori sanctuary in Sonitpur district for decades, and the government of Assam initiated an eviction effort to eradicate 'encroachment' in the sanctuary in February of 2023.²⁹⁵ The goal was to remove 1,892 hectares of sanctuary land. In January of 2021, 45 squatter households were removed from Dhalpur, located in the Darrang district's Sipajhar Revenue Circle. This eviction effort was so effective that nearly 800 bighas of government land were reclaimed.²⁹⁶ However, after the eviction in Dhalpur, hundreds of suspicious individuals arrived in the riverine parts of

²⁹² Ankita Dutta, 'The Politics of Land Encroachment: Assam & the North-East' (*Myindmakers*, 1 Feb 2022) <<https://myind.net/Home/viewArticle/the-politics-of-land-encroachment-assam-the-north-east>> accessed 19 April 2023.

²⁹³ PTI, 'Anti-encroachment drive set to free up forest land in Assam' (*The Hindu*, 9 January 2023) <<https://www.thehindu.com/news/national/other-states/anti-encroachment-drive-set-to-free-up-forest-land-in-assam/article66354858.ece>> accessed 17 April 2023.

²⁹⁴ Mukut Das, 'Over 4 sqkm of Pabha forest land cleared of encroachers' (*TOI*, 11 January 2023) <http://timesofindia.indiatimes.com/articleshow/96898918.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst> accessed 17 April 2023.

²⁹⁵ Dibya Kamal Bordoi, 'Assam Government conducting eviction drive to evict 2513 illegal migrant families from Bura Chapori wildlife sanctuary' (*Organiser*, 14 February, 2023) <<https://organiser.org/2023/02/14/108126/bharat/assam-government-conducting-eviction-drive-to-evict-2513-illegal-migrants-from-bura-chapori-wildlife-sanctuary/>> accessed 18 April 2023.

²⁹⁶ PTI, 'Massive eviction drive in Darrang, 8,000 bighas of govt land cleared' (*The Sentinel*, 21 September 2021) <<https://www.sentinelassam.com/topheadlines/massive-eviction-drive-in-darrang-8000-bighas-of-govt-land-cleared-555654>> accessed 18 April 2023.

his constituency via small boats, settling in places like Sonapur, Hohora, and Dimoria on the banks of the Brahmaputra.²⁹⁷

Over 60 homes belonging to unauthorised immigrants from the Bhora-Singri-Sutipahar area on the banks of the Brahmaputra have been demolished by the Sonitpur district administration in Assam on October 21, 2020, under the supervision of Thelamara Police Station. It should be noted that just 250 of the approximately 2,200 households in the area at the time of the eviction were determined to be legitimate Indian residents, with the remaining 1,950 families being illegal Bangladeshi settlers.²⁹⁸

The Kaki-Lanka region of Nagaon district has 275 bighas of state-owned land illegally occupied by Bangladeshi infiltrators. In 2021, JCB excavators were used to remove unlawful buildings and squatter communities by the local government. The district government also eradicated Bangladeshi infiltrators' attempts to grow turmeric in a Government of Assam-owned rubber plantation. Nearly 1,900 acres of forest and government property in Sonitpur district were cleared by the Assam government on Tuesday, displacing 12,000 people who had reportedly been living there illegally for decades.²⁹⁹ Burachapori Wildlife Sanctuary (BWS) and neighbouring revenue villages on the southern bank of the Brahmaputra River in central Assam are undergoing a massive land clearance operation under tight security. In different sections of lower Assam, police have filed 18 cases against PFI activists.³⁰⁰ Mob violence, anti-national activity, attacks on police with sharp weapons, vandalism, destruction of public property, conspiracy against the government, etc. were all documented by the police.³⁰¹ The primary motivation for these evictions has been to reclaim stolen government land.³⁰² The state administration stopped providing miyadi patta out of concern that 'illegal' Bangladeshi migrants might take advantage

²⁹⁷ Dibya Kamal Bordoloi, 'Can't allow illegal land grabbing by illegal immigrants anymore.' (*Organiser* 4 October 2021) <<https://organiser.org/2021/10/04/19068/bharat/can-t-allow-illegal-land-grabbing-by-illegal-immigrants-any-more/>> accessed 19 April 2023.

²⁹⁸ cf Dutta (n 126).

²⁹⁹ Sanbeer Singh Ranhotra, 'Illegal Bangladeshi migrants had captured a Shiva temple and its surrounding land. CM Himanta is smoking them out' (*TFI Post*, 7 June 2021) <<https://tfipost.com/2021/06/illegal-bangladeshi-migrants-had-captured-a-shiva-temple-and-its-surrounding-land-cm-himanta-is-smoking-them-out/>> accessed 18 April 2023.

³⁰⁰ cf Bordoloi (n 297).

³⁰¹ PTI, 'Assam starts evicting 'encroachers' from forest land; Cong cries foul' (*DH*, 14 February 2023) <<https://www.deccanherald.com/national/east-and-northeast/assam-starts-evicting-encroachers-from-forest-land-cong-cries-foul-1191198.html>> accessed 18 April 2023.

³⁰² cf Dutta (n 296).

of the programme. However, the current Chief Minister's land policy, Mission Basundhara 2.0, added another layer to the situation in November 2022 by granting ownership rights to migrants from Bangladesh who had illegally encroached upon Government lands totaling over 4,50,000 acres (14 lakh bighas) with only a nominal identity proof and proof of encroachment prior to January 1, 2011.³⁰³ Therefore, this strategy undermines the Constitution, the Citizenship Act of 1955, and the Constitution Bench hearing by setting a new cut-off date of 2011.³⁰⁴

Therefore, it is understandable that although the Government of Assam has been indulging in evictions to secure the land of the state, the conviction for this has been missing as shown by the contradicting behavior of the Government.

5.6 INDIA'S RELATIONSHIP WITH BANGLADESH

Consider what has been going on in Bangladesh, where the actual rate of population growth in 1995 was 2.0%, but the natural rate of population growth was 2.2%. It is essential to take this information into consideration.³⁰⁵ As a result, Bangladesh saw a rate of net outflow (emigration) that was 0.2% on an annual basis. Bangladesh had a total population of 124 million people in the year 1995. Consequently, we are able to arrive at an estimate of 248,000 Bangladeshis having emigrated in the year 1995. Again, based on the extreme assumption that the rate of emigration occurred at that rate throughout the entire period of time between 1971 and 2011, we find that 9.9 million Bangladeshis departed their nation during that period of time. This, of course, does not shed any light on the total number of people that travelled to Assam.³⁰⁶

However, as indicated by the illegal occupation of land in Assam, a sizeable portion of land-hungry poor Bangladeshis did make their way to Assam in search of a better life. It has been discovered that the land-to-person ratio is a significant factor of migration from Bangladesh to

³⁰³ Aseem Mishra, 'Safe and Inclusive Cities' <<https://idl-bnc-idrc.dspacedirect.org/bitstream/handle/10625/55673/IDL-55673.pdf?sequence=1>> accessed 18 April 2023.

³⁰⁴ PTI, 'Assam government controlled by Bangladeshi immigrants, claims Supreme Court lawyer Upamanyu Hazarika' (*India Today*, 20 January 2023) <<https://www.indiatodayne.in/assam/story/assam-government-controlled-bangladeshi-immigrants-claims-supreme-court-lawyer-upamanyu-hazarika-500465-2023-01-20>> accessed 18 April 2023.

³⁰⁵ cf Mohan (n 208).

³⁰⁶ cf Bharali (n 18).

Assam, although the difference in per capita income is not one of these significant determinants.³⁰⁷

When the Prime Ministers of India and Bangladesh met to discuss the unprecedented job of resettling the refugees and displaced individuals in Bangladesh, they issued a joint declaration on February 8th, 1972, in which India pledged “all possible assistance to the Government of Bangladesh.” This proclamation was made in response to Bangladesh’s exceptional commitment to resettle refugees and displaced people. Unfortunately, not all evacuees were able to return to their own communities, and Bangladeshi workers kept crossing into Assam and other regions of India. There was widespread unease in the state of Assam when a large influx of “foreigners” changed its population structure, language itself, and traditions and put a strain on the state’s assets.³⁰⁸

If everything is put back on track and deportation proceedings are begun, the million-dollar question will be whether or not Bangladesh is willing to accept them back into the nation.³⁰⁹ It is of the utmost concern whether or not India has ever formally brought up the issue with Bangladesh on an international or diplomatic level, given that India’s Minister of State for Home Affairs, Kiren Rijiju, stated on March 14, 2018, that India does not have a specific pact with Bangladesh regarding the repatriation of its citizens who have illegally entered India. There is serious cause for alarm because it is not known whether or not India has taken this action. The centre also stated last week that it has no intentions to enter into a new deal with neighbouring Bangladesh over the repatriation of illegal migrants to that nation.³¹⁰

The government of Bangladesh has stated that there are no Bangladeshis living in Indian territory. If one makes such an assumption, it will be considerably more challenging for India to convince Bangladesh of anything. In such case, what are India’s plans for expelling the illegal immigrants? In addition to this, the Human Development Index (HDI) for Bangladesh is higher than that of Assam. At this time, the per capita income of Bangladesh is around 70 percent higher than that

³⁰⁷ cf Nath, Nath (n 15).

³⁰⁸ cf Bharali (n 18).

³⁰⁹ cf Mudoi (n 17).

³¹⁰ cf Goswami (n 53).

of Assam. Therefore, it stands to reason that they will not move to Assam. This is the primary argument that Bangladesh brings forward.

At this moment, the only choice that will be available to India is to either convince Bangladesh to accept those people or to award them Indian citizenship. Neither of these options is ideal.³¹¹ As a result of this, there is no doubt that the demographics of the entire region will be permanently altered. This problem of migration has been dragged out for far too long.

If timely care for migration-related illness had been provided in Assam, the state would have been spared its worst repercussions.³¹² Assam and the North East were focused with such local socio-cultural, economic, and political difficulties as the rest of India worked to speed up the development card after independence. One of the main reasons for the region's lackluster level of growth is this. And if things keep going the way they are, another Assam Movement against foreigners might break out at any time, which would have disastrous results and put the entire country's legal order in jeopardy.

6. CONCLUSION AND SUGGESTIONS

This study was carried out with the intention of understanding and analyzing the problem of immigration in the state of Assam and the consequent threat that this poses to the identity of the Assamese people. It is well known that immigration in Assam has been a contentious topic, which, over the course of time, has resulted in a variety of social unrests, many of which have been violent in nature.

The state of Assam and its indigenous people have been impacted in multiple ways by the illegal immigration that has taken place there. The massive and unmanaged influx of migrants from Bangladesh and other Indian states into Assam has not only had a negative impact on the state's demographic, economic, and social profiles, but it has also been one of the primary sources of

³¹¹ cf Gohain (n 51).

³¹² cf Biswas (n 38).

social conflict and ethnic unrest in the region. The persistent movement of illegal immigrants from Bangladesh into Assam has resulted in a grave crisis for the local population.

The Assamese people gave their lives during the Assam Movement, but it appears that their sacrifice was in vain. This is despite the fact that the Assam Movement attempted to find a permanent solution to the problem. In the years leading up to the Assam Accord, there was a lot of unrest and uncertainty, and every political party wanted to try their hand at exploiting the tense situation.

The IMDT Act of 1983, the absence of solid administrative apparatus with matching resources, and the absence of an adequate treaty with Bangladesh were all factors that contributed to its eventual collapse, and they were all present in the original document. During the visit of the Prime Minister to Bangladesh in 2011, a total of 64 agreements were signed between the two countries; however, there was no discussion about the migrants from Bangladesh who have made their way to the North East. This is something that should be addressed. Although we do not anticipate that anyone will be found and deported, there is still a possibility that some real solutions are implemented.

In addition, Bangladeshis who have resided in this country since 1971, for example, have children who are now considered to be adults. These children are Indian citizens due to the fact that they were born and raised in the state of Assam. Even if these families arrived in Assam after 1971, expelling them from the state would be a violation of their human rights. It has been more than a quarter of a century since the signing of the Accord, and as more time goes by, it becomes relatively more difficult to adhere to the policy that was codified in it.

With the passage of time, the effectiveness of the Assam Accord seems to have decreased, and the principal issue has been taken over by the right-wing forces of proponents of both of the major religions, Hindu and Muslim. With the updating of NRC, the same politicians are now attempting – or rather, have tried successfully to some extent – to stoke religious sentiment, thereby attempting to cloak the entire NRC/Assam Accord exercise in a religious hue. In contrast, politicians have drawn rich dividends over the years by delaying the implementation of the accord.

6.1 SUMMARIZATION OF FINDINGS

Since many years ago, the problem of illegal immigration from Bangladesh has been a problem in the state of Assam. Assamese political and social discourses are concerned that unrestrained immigration from the neighboring state would alter the demographic character of their state in the not-too-distant future and cause their way of life to be compromised. It is possible that the indigenous people of Assam would become a minority within their own state as a consequence of population movement from neighboring Bangladesh. An identity crisis was brought on among the native Assamese people as a result of the influx of immigrants. They believed that if the pressure was allowed to continue, their economic life, political life, and cultural life would all be put in jeopardy; similar to what happened in Tripura.

The phrase “Assamese identity” needs to be defined before we can even begin to find a solution to this problem. On the one hand, the Assam Accord does not elaborate a definition of “Assamese People.” On the other hand, different academics, politicians, and members of civil society have tried to define “Assamese” in different ways; however, major similarities between these point towards these characteristics: history and common experiences, language, religion, and culture. The risk of having one’s identity stolen is consequently evaluated according to these indicators.

According to the findings of the aforementioned research, both the population growth rate over the past decade and the population density in Assam have increased at a more rapid rate than those shown in India’s overall population growth rate and population density. The problem of Assam’s exceptional population growth is caused by the proliferation of migration from other states in India as well as international migration from outside of India, particularly from countries that are neighbouring India such as Bangladesh.

Since 1972, the number of registered voters in the state has not shown a consistent expansion, which may have been considered typical; rather, the number has shown irregular fluctuations from time to time. In the six years between 1972 and 1979, the number of registered voters in the State increased by 16 lakhs; however, in the four years between 1978 and 1983, the number declined by four lakhs. This decline can be linked to the fact that during the height of the Assam movement, some individuals left the State, while there also appears to have been a decrease in the amount of infiltration that took place. On the other hand, during the years 1983 and 1985, there was a very exceptional increase of 21 lakhs in the number of voters in just two years. Again,

over the period from 1985 to 1991, there was a 20 lakh rise in the number of people who were eligible to vote in the state. However, this trend did not continue, and the total number grew by a meagre three lakhs during these time periods (1991–1996). On the other hand, the years that followed saw a substantial rise in the number of people who registered to vote. From 1996 to 2001, the number climbed by 23 lakhs, and from 2001 to 2006, the number increased by 30 lakhs; however, the trend then reversed itself, and the growth from 2006 to 2011 was only seven lakh voters.

The government of India needs to demonstrate a strong political commitment if it is going to move quickly towards finding a long-term solution to the problem. The government of India has implemented multifaceted policies that are centred on the principle of accommodation as a means of responding to the ethnic conflicts that have arisen inside the state. On the other hand, the policies have not been sufficient to fulfil all of the people's hopes and dreams.

Although the NRC keeps alive a definition of citizenship that dates back to the Assam Accord, it is estimated that two million people were left off the final NRC list. However, there is currently no effective means of expelling these illegal immigrants from the nation.

This covert and malicious demographic invasion of Assam may lead to the state's loss of the geostrategic districts of essential importance in Lower Assam. These neighborhoods are rapidly becoming areas with a Muslim majority as a result of the surge of undocumented migrants. Therefore, the time has come to find solutions to the issues surrounding illegal immigration in order to save the people of Assam in their own land and to save the nation from the danger posed by immigrants.

Additionally, India has asserted that it brought up the subject of illegal migration with Bangladesh during a meeting between the two countries' home ministers in the month of August 2019. India's assertion was, however, refuted by Bangladesh. Even if we were to reach an agreement and sign a treaty with Bangladesh over this issue, it would not be possible for us to locate and deport millions of people by adhering to the complex legal procedures required. It has been difficult to persuade Bangladesh to participate in a discussion since there is a lack of trustworthy data on the number of Bangladeshi migrants living in India.

It is impossible to find an overnight solution to a problem that is so deeply rooted in history but it is imperative that the potentially catastrophic effects of undocumented immigration on a massive scale from Bangladesh be emphasised, not only for the people of Assam but also for the entirety of the nation as a whole.

6.2 TESTING THE HYPOTHESIS

The present study contained two hypotheses.

The first hypothesis states: *“There is a problem of illegal immigration in the state of Assam which threatens the identity of Assamese people.”* The issue of illegal immigration has been a deeply emotive one for the Assamese people. It has affected them in various ways, by rapidly changing the demography of the state, bringing about socio-cultural changes, illegally settling down in various places of the state, among other things. Because the population of Assam is changing so quickly as a result of immigration from Bangladesh, there is a significant cause for anxiety among people who are looking to protect their identity. This dilemma leads to conflict with the immigrants and the Assamese people as we have seen in multiple instances over the years. Given that it was promised with the incorporation of Clause 6 of the Assam Accord to provide constitutional safeguards to culture, linguistic, political, and land rights of the Assamese people as a result of prolonged struggle of the people during the Assam Movement (1979-1985), the question of citizenship is entangled with the question of indigenous rights. The multifaceted policies that have been implemented by the government of India are a response to the identity conflict that has arisen in the state. However, the policies have not been sufficient to fulfil all of the ambitions of the Assamese people because they have been ineffectual in preventing the entry of immigrants and in expelling those who have already entered the country illegally. In such a situation, there is a genuine threat of the Assamese identity becoming a mere fictitious idea, while they attempt to preserve the basic components of the society such as land and language protection.

The second hypothesis states: *“The initiatives taken by the state to mitigate this problem is inadequate and inefficient.”* During the Assam Movement, members of the Assamese population sacrificed their lives; yet, it would appear that their deaths were in vain. The IMDT Act of 1983, the absence of robust administrative machinery with corresponding resources, and the absence of an acceptable treaty with Bangladesh are all elements that contributed to its eventual collapse,

and they were all contained in the original agreement. Additionally, the lack of a resolve on the part of the state is a factor that contributes to the ensuing identity problem of the Assamese people. Illegal immigrants in Assam are hard to find and get rid of because they speak Bengali, a language that is similar to Assamese. The state is yet to find a working apparatus for the preservation of the Assamese language. Moreover, the subsequent failures of the government to evict government lands of illegal immigrants show that the measures taken by the state is deficient and ineffectual.

6.3 SUGGESTIONS

The problem of illegal immigration in Assam has been a contentious topic, which, over the course of time, has produced harsh reactions from the Assamese people. Since the government initiatives have not been adequate, the following suggestions can be made to combat this issue:

- I. Illegal movement from Bangladesh should be seen as a national problem, not a regional one. The national and state governments can't ignore how dangerous the threat to national security has become due to it. An independent organization needs to keep a close eye on the connections that exist between local politicians and insurgent leaders. It is possible to put into action effective mechanisms for the registration of births and deaths. In addition, the unrestricted movement of people who do not have a passport or a visa needs to be monitored and restricted.
- II. It is recommended that the Central Government establish a National Immigration Commission in order to formulate a National Migration Policy as well as a National Refugee Policy. The Commission ought to investigate methods of making the Foreigners Act of 1946 more effective, as well as the practicability of issuing identity cards to both citizens and non-citizens, and work permits to migrants. The issue that is caused by illegal immigrants should be brought to the attention of the people who live along the border.
- III. Illegal immigration must stop right away, so protective steps must be taken right away. The current posts of the Border Security Force and the BSF water wing will be improved, and the border fence, patrols, and lighting should be enhanced. The fencing around the border ought to be finished with diligence. Because certain sections of the fencing are located in riverine areas, it is necessary to manually secure these sections. Infrastructural improvements such as floodlighting and the paving of roads are essential to enabling

efficient border patrols and closing the gaps that exist between border checkpoints. It is also necessary to ensure that the Border Security Force (BSF) has access to the most cutting-edge technologies for conducting border patrols.

- IV. Based on the above discussion, we conclude that rapid change of identity is neither desirable nor significant for a Civil Society and, Assamese people value the preservation of their ethnic identity. Therefore, we should prevent ‘vote bank’ politics through public literature and propaganda. Effective profile of politicians in Assam is needed to combat corruption in political processes and prevent them from using the electoral system to subjugate the Assamese people.
- V. We need to come up with a fresh and workable mechanism if we are going to be on the lookout for the economic effects of immigration. A migrant up to this point who has made Assam their home, may be awarded rights comparable to those of a “denizen,” which will include the ability to obtain a work permit and access to health care facilities but not the right to vote. Work permits, which have the support of Assam’s populace, are maybe the only option to monitor the flow of illegal migration into Assam. The systematic documentation of illegal migrants so that they may be tracked and turned into a viable workforce in India that pays its taxes to the state as required would be beneficial. It is necessary for jobs to be properly selected in which migrants from Bangladesh can work in Assam so that local people do not feel intimidated by the presence of an outside workforce in their midst.
- VI. Uninterrupted discussion mechanism with Bangladesh on the matter of insurgent camps located within its territory is required in the event that illegal immigrants are to be deported back to their country of origin, which is Bangladesh in this instance. Collaboration in economic and social endeavors will improve the relations between the two countries, and this will ideally maintain a continuing conversation between India and Bangladesh on the subject of immigration to India regardless of future changes in administration in both countries. Again, Bangladesh has voiced opposition to the construction of a border fence in a number of locations. This is due to the fact that an agreement between the two nations prohibits the construction of defense installations within 150 yards of the zero-line border. Bangladesh has viewed the fence that India has

constructed along the border as a potential defense construction. In these places, the patrolling must be strengthened even more to ensure immigration is not happening.

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